16-272

Supreme Court of the United States.

OCTOBER TERM, 1882.

THE FARMERS' LOAN AND TRUST COMPANY, ET AL, APPELLANTS,
vs.
CHRISTIAN WATERMAN ET AL, APPELLEES.
No. 814.

EXTRACT FROM RECORD.

Stipulations as to Evidence on Claim of F. A. W. Davis, Folio 4865.

The following stipulation as to the intervening petition of Frederick A. W. Davis and others herein, was filed by the parties.

In the matter of intervening petition of Frederick A. W. Davis and others, it is agreed that the following evidence was given in support of the claim of said Davis and others:

Davis became the purchaser of the claims upon which the allowance to him was made by the Master under the following circumstances, that is to say: one or more holders of claims against the I. B & W. Railway Company, which claims were in the shape of paymasters' orders, came to the office of the Indiana Banking Company with George B. Wright, Receiver in this case, and said holders of said claims and said Wright represented to said Davis that the holders of said claims were merchants and provision men

doing business in Urbana, Illinois, and that they had taken these paymasters' orders in the course of trade, as cash for goods and provisions sold to laborers, and that they were not able to take the Receiver's orders in the same way for the reason that their stocks in trade had become exhausted, and they had not means with which to replenish; but that if they could get money upon their paymasters' orders they could replenish their stock and take the Receiver's orders as cash for goods sold to laborers, in the same manner that they had theretofore taken the paymasters' orders.

Mr. Wright at the same time represented that he was short of means, and was, of necessity, obliged to issue his orders to laborers to some extent, and it would be an exceeding accommodation to him if these gentlemen mentioned above could be placed in a condition so that they might take his pay orders in payment for goods and provisions sold.

Under these circumstances, and at the solicitation of the Receiver, Davis bought said claims for the Indiana Banking Company partners, consisting of Davis and others, paying therefor eighty-three cents on the dollar.

Davis testified that at the time mentioned above Wright said that they were threatened with a strike at the shops in Urbana, and unless this arrangement could be effected, so that the hands could be paid, or could use their Receiver orders, they might have trouble.

CLAYPOOL & KETCHAM,
For Davis *et al.*

C. W. FAIRBANKS *et al*,
For Respondents.

True copy—Attest:

JAMES H. MCKENNEY,
Clerk Supreme Court U. S.

[SEAL.]

FILED
JUL 5 1882
JAMES H. MCKENNEY

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1882.

THE FARMERS' LOAN AND TRUST COMPANY, AUSTIN CORBIN, GILES E. TAINTOR AND JOSIAH B. BLOSSOM, APPELLANTS,

vs.

CHRISTIAN WATERMAN AND OTHERS, APPELLEES.

Appeal from the Circuit Court of the United States for the District of Indiana.

MOTION TO AFFIRM DECREE,

—AND—

BRIEF

IN SUPPORT OF SAID MOTION.

BY JOHN M. BUTLER,

Solicitor.

CARLON & HOLLENBECK, PRINTERS, INDIANAPOLIS.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1882.

THE FARMERS' LOAN AND TRUST COMPANY, AUSTIN CORBIN, GILES E. TAINTOR AND JOSIAH B. BLOSSOM, APPELLANTS.

vs.

CHRISTIAN WATERMAN AND OTHERS, APPELLEES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF INDIANA.

MOTION TO AFFIRM DECREE.

The appellees, and all intervening claimants named in the decree from which this appeal is prosecuted, come now, by their solicitors, and move the court to affirm the decree of the court below, on the following grounds, namely:

1. That although the record may show that this court has jurisdiction, as to the decrees in favor of some,—or all,—of said appellees and intervening claimants, it is manifest that the appeal was taken for delay only.

2. That the question on which the jurisdiction depends,—as to any one, or all, of said appellees and intervening claimants,—is so frivolous as not to need further argument.

Said appellees and claimants pray that this motion may be united with, and considered in connection with, the "motion to dismiss appeals and vacate supersedeas as to all intervening petitioners in whose favor sums less than five thousand dollars, are severally decreed," submitted to this court on April 24th, A. D., 1882.

Respectfully submitted,

McDONALD & BUTLER,
CLAYPOOL & KETCHAM,
Solicitors for appellees and Intervening Claimants,
By JOHN M. BUTLER.

June 29, 8882.

BRIEF.

The statement of facts contained in the brief filed by me in support of the motion to dismiss, submitted on April 24th, 1882, is equally applicable to this motion. Without repetition here we beg to refer the court to that statement for the history of this litigation. Notwithstanding the criticism of counsel for appellants, a careful re-examination and comparison with the printed record has confirmed our belief in the correctness of every material averment of that statement. The record is cited in support of each material fact stated, beginning with the original order appointing a receiver. It was not deemed necessary to cite the record in proof of the historical facts preceding this litigation. Counsel for appellants calls attention to the fact that a part of the order extending the receivership to the cross bill of The Farmers' Loan and Trust Company is omitted from the record of the case in the Indiana State Court. Counsel will not deny the fact that while the cause remained in the State Courts of Illinois and Indiana, substantially all the litigation actually took place in the Illinois State Court, the understanding being that accurate duplicates of all orders entered in the Illinois State Court should be entered

in the Indiana State Court. This was done in almost every instance, but in a few cases was not done, through mistake or oversight. For the express purpose of curing and correcting these errors and omissions in the Indiana record, a stipulation was entered into and inserted in the decree from which this appeal is prosecuted, making any part of the Illinois record omitted from the Indiana record to be and become a part of the Indiana record with the same force and effect as though originally entered therein. [Record p. 498.] A comparison of the two orders [Record p. 90] shows clearly that the Indiana order is simply an *incomplete copy* of the Illinois order, which by the stipulation above cited is now a part of the Indiana record.

Counsel for appellants protests against the statement that these various orders and decrees entered during the progress of the cause were *consented to* by the Farmers' Loan and Trust Company. We have always understood that when orders and decrees are entered in open court, in the presence of all the parties and their counsel, and *no objection or exception whatever is reserved*, such orders and decrees are regarded as consented to by the parties in interest. Whether right or wrong in this supposition, it is certainly true that the modification of the final decree of foreclosure and sale, rendered May 8, 1878, *was consented to and procured by the Farmers' Loan and Trust Company.* The record affirmatively proves this. [Record, p. 304.] It is equally true that the original final decree of foreclosure and sale, rendered July 24, 1877, *was consented to and procured by the Farmers' Loan and Trust Company.* [Record, pp. 213 to 224.] The fact that no appeal has been prosecuted from either the original final decree, or the final decree as modified, or from the decree confirming the sale, made under the final decree as modified, proves conclusively that these several decrees—which are the all important ones to consider in connection with the motions to dismiss and affirm—*were satisfactory to the Trustee.* The

final decree contains these words: "And it is further ordered that any of the parties to this action may apply to the court for such other or further directions at the foot of this decree as may be necessary to carry it into effect, *no question being reserved except the question as to the amount of the claims or sums of money to be allowed as provided in the fourteenth clause of this decree; and so far as the same shall be passed upon by the court, such allowance or disallowance shall take effect as if now incorporated in and passed upon by this decree.*" [Record, p. 223.] These words *exclude* every other question and right adjudicated by the decree from future consideration. They make the *rights* and *priorities* of the different classes of creditors as fixed and determined by the terms of the decree, ABSOLUTE. By these words *all parties* to that decree are BOUND. That decree can not now be questioned. We desire in this connection to refer the Court to the 1st, 3d, 4th and 7th sections of the argument filed by me in support of the motion to dismiss, submitted April 24, 1882, as applicable also to this motion to affirm. The motion to dismiss includes 1149 several claims. This motion embraces ALL of the several claims set forth in the decree of October 31, 1881, including *fourteen claims* not covered by the motion to dismiss, each of said fourteen claims being for a sum exceeding five thousand dollars.

In support of this motion to AFFIRM we desire to submit the following suggestions:

1. The foreclosure decree rendered July 24, 1877, [Record, pp. 213 to 224]—as modified by the supplemental decree rendered May 8, 1878, [Record, pp. 304, 305]—is a FINAL DECREE and settles absolutely all *rights* and *priorities* determined and adjudicated by said decree. Especially is this true when we show further that the property was *actually sold* under that decree, the sale was *confirmed* by a decree from which no appeal has been prosecuted, and

the proceeds of sale have been distributed according to the foreclosure decree.

Whiting v. *Bank of U. S.*, 13 Peters, 15.
Ray v. *Low*, 3 Cranch, 179.
Forgay v. *Conrad*, 6 Howard, 204.
Bronson v. *Railroad Co.*, 2 Black, 529.
Thompson v. *Dean*, 7 Wallace, 346.
Stoval v. *Banks*, 10 Wallace, 583.
Railroad Co. v. *Swasey*, 23 Wallace, 409.
Sage v. *Railroad Co.*, 6 Otto, 714.

2. By the terms of this foreclosure decree the *only question* reserved is "the question as to the *amount* of the *claims* or *sums* of money to be allowed" to these claimants. [Record, p. 223.]

The right of these claimants to be paid—whenever the several amounts due them should have been ascertained,—*was fully and finally adjudicated by this decree*, now more than four years old. The *security* for the payment of these claims was provided by this decree, by providing that the property should be sold *subject to these claims.* [Record p. 304]

3. The property was sold under this final decree, subject to the payment of these claims. The sale was confirmed by a decree rendered December 23, 1878, from which no appeal has been prosecuted. [Record p. 327.] The *proceeds of sale* have been distributed pursuant to the terms of decree. [Record pp. 327, 329, 334, 335.] The decree of foreclosure, and the decree confirming the sale made under and pursuant to the foreclosure decree, finally foreclose and adjudicate every question involved in the litigation *excepting one.* The only question left open and unadjudicated is set forth in the decree in language too clear and explicit to admit of controversy, viz.: "NO QUESTION BEING RESERVED *except the question as to the* AMOUNT *of the* CLAIMS *or* SUMS *of money to be allowed* as provided in the fourteenth [by the modification of the decree May 8, 1878—Record pp. 304

305—this word '*fourteenth*' should now read '*thirteenth*'] clause of this decree, and so far as the same shall be passed upon by the court, such allowance or disallowance shall take effect as if now incorporated in and passed upon by this decree." [Record p. 223.]

The only question adjudicated by the decree of October 31, 1881 [Record pp. 449 to 499], from which this appeal is prosecuted, is this same question reserved by the final decree of foreclosure. This decree appealed from simply *determines the several amounts due on these several claims, and directs their payment in accordance with the terms and provisions of the foreclosure decree.* [Record pp. 450, 454.]

The foreclosure decree adjudicated the legal and equitable *status* of these claims, determined the rights and priorities of these claimants, and decreed who should pay them, when the amounts due them had been ascertained by the court. [Record pp. 221, 222, 304, 305, 336.] The controversy, therefore, is limited to the question of *the amounts due on these several claims.* All other questions are forever settled by a final decree consented to at the time, now four years old, and never appealed from.

4. The Farmers' Loan and Trust Company has no possible interest in this question, and has no right to appeal from the decree of October 31, 1881.

FIRST: The Farmers' Loan and Trust Company, as trustee of the two mortgages upon which the foreclosure decree and sale were based, asked for, *consented to,* and procured a decree to sell the railway covered by its mortgages, SUBJECT TO THESE CLAIMS, [Record pp. 304, 305.] thereby agreeing to accept in full satisfaction and discharge of its mortgages, the amount for which the property would sell at public sale *subject to these claims.* The foreclosure decree merged the mortgages and bonds represented by the trustee. Under this decree, this trustee procured the property to be sold *subject to these claims,* and procured the *proceeds of sale* to

be paid out and distributed to its bondholders, pursuant to the decree. [Record pp. 327, 329, 335.]

The sale under the decree, and the payment and distribution of the proceeds of sale, forever satisfied and discharged the decree as to all the rights and interests of the trustee, and the bondholders represented by the trustee. Whether these claims are paid, or defeated, is a matter of no interest to this trustee; its mission and interest in this suit ceased finally when it received and distributed the proceeds arising from the sale of the property under its foreclosure decree. If every one of these claims were defeated, the Farmers' Loan and Trust Company would not thereby procure another dollar for distribution to its bondholders.

SECOND. *There is no decree here against the Farmers' Loan and Trust Company.* Nothing is required of it. It is not a party in interest. Only parties having a substantial interest, affected by a decree, can appeal from that decree.

Ex parte Cutting, 4 Otto, 22.
Speer v *Place*, 11 Howard, 526.
Bayard v *Lombard*, 9 Howard, 551.
Payne v *Niles*, 20 Howard, 220.

We therefore ask that the decrees of October 31, 1881, may be affirmed as to appellant, the Farmers' Loan and Trust Company.

5. The appellants, Austin Corbin, Giles E. Taintor, and Josiah B. Blossom, are bound by all orders and decrees rendered by the court in the cause, prior to their purchase, and can not question them, or appeal from them.

They stand before this court *solely as purchasers.* Their right to appeal *is limited strictly to proceedings subsequent to their purchase.* They can not be heard to question matters and rights adjudicated and decreed *prior* to their purchase. *Blossom* v. *Milwaukee and Chicago Railroad Company*, 1 Wallace, 655; *Hinkley* v. *Gilman, etc., R. R. Co.*, 4 Otto, 469.

The only decree rendered in the cause *subsequent* to the purchase by these appellants, is the decree of October 31, 1881, which, as has already been shown, *simply determines the amounts due on these several claims, and directs their payment in accordance with the terms of the final decree rendered long before these appellants purchased the property.* The decree of May 8, 1878, determined and decreed that *these claims shall be assumed and paid by the purchasers,* when finally ascertained and adjudged. [Record, p. 304.]

The deed accepted by these purchasers contains the same provision. [Record, p. 336.] The decree of October 31, 1881, shows on its face that in directing these purchasers to pay the several sums found and decreed due, it makes *no new adjudication,* but simply executes the decree of May 8, 1878. [Record, p. 450.] The only question adjudged *since the purchase by these appellants,* is the question of THE AMOUNTS DUE ON THESE SEVERAL CLAIMS; hence, THAT is the only adjudication *they* can be heard to question. To permit them to present *any other question,* would be to permit them, under cover of the decree of October 31, 1881, to present questions *finally adjudicated* long PRIOR to their purchase, and to review *final decrees,* that have stood more than four years without any appeal having been prayed or prosecuted.

6. Having established these points, to wit:

FIRST. That the foreclosure decree of July 24, 1877, with the modification thereof of May 8, 1878, is a FINAL DECREE.

SECOND. That that final decree determined all rights and priorities, and *adjudicated* all questions involved, *excepting only "the amount of the claims or sums of money to be allowed" to these claimants.*

THIRD. That the decree of October 31, 1881, from which this appeal is prosecuted, *adjudicates no question,* save the single question reserved by the foreclosure decree, viz.: *the amounts due on these several claims.*

FOURTH. That the Farmers' Loan and Trust Company *has no interest* in the defeat, or payment, of these claims; has no decree here against it; is in no manner affected by, and has no right to appeal from, the decree of October 31, 1881; and,

FIFTH. That appellants, Corbin, Taintor and Blossom, stand here solely as purchasers, bound by all decrees and orders rendered *prior* to their purchase, and can, therefore, only be heard to question the correctness of *the several amounts decreed to these several claimants by the decree of October 31, 1881.*

We submit that it is clearly manifest that the appeal is simply for delay, and that the only question on which the jurisdiction depends,—the only question raised by the appeal,—is so frivolous as not to need further argument.

FIRST. The record affirmatively shows that appellants substantially admit the correctness of the amount decreed to each claimant named in the decree of October 31, 1881, excepting only *two* several claims.

There are 1163 several amounts decreed against the appellants, Corbin, Taintor and Blossom, purchasers of the Main Line of the I., B. & W. Ry. Of this number 1151 are covered by a stipulation of record by which it is stipulated that these 1151 claimants duly filed their several claims in conformity with the requirements of the order of reference,—which required each claim to be verified,—except that in a few cases named in the stipulation, the petitions were, by leave of Court, filed *after* the time named in the order of reference,—and by which it is further stipulated *that these several petitions were for claims for supplies, materials and labor actually furnished to, and performed for, the Company in the operation of its railway* within the six months next preceding the appointment of the Receiver. [Record, pp. 195, 196].

This stipulation was entered into at request of appellants; by it these 1151 petitions, and proofs accompanying

them, are omitted from the record, thereby shortening it several hundred pages. In view of this record it would surely be very frivolous for appellants to question the correctness of these 1151 several amounts covered by this stipulation. *Twelve claims* are not covered by the stipulation, the petitions appearing in full in the record in twelve several claims These twelve will be considered separately.

1. Henry C. Adams, Assignee of Ind. Brass & Supply Co. The exact *amount* due on this claim is fixed by stipulation signed by Counsel for appellants. [Record, p. 241]. Of the $6,426.63 agreed to be due on this claim $5,623.30 is decreed to be paid by these appellants. [Record, p. 473]. and $803.33 is decreed to be paid by the purchasers of the Extension Ry. [Record, p. 492].

Hence this *amount* can not be questioned.

2. Pullman Palace Car Co. The exact *amount* of this claim is settled by stipulation [Record, p. 326],—and the whole amount is decreed against these appellants, purchasers of the Main Line—no sleeping cars ever having been used on the Extension. [Record, p. 481].

Appellants can not question this amount.

3. J. A. McKenzie. By stipulation the amount claimed in this petition is admitted to have been satisfactorily proved. [Record, p. 212.] Of the amount allowed $5,802.37 is decreed against these appellants [Record, p. 480], and $970.16 is decreed against purchasers of Extension Railway. [Record, p. 496.]

Appellants can not question this amount.

4. Second National Bank of Peoria. The exact amount of this claim is fixed by stipulation [Record, pp. 233, 234] and its correctness can not now be denied. Of the $12,000 allowed, $10,500 is decreed against these appellants [Record, p. 476] and $1,500 is decreed against Extension Purchasers. [Record, p. 494.]

5. A. Snedeker. This petition is followed by an agreed statement of facts that determines the exact amount allowed.

[Record, pp. 235, 236.] Of the $7,092.63 decreed in favor of Snedeker, $6,206.05 is decreed against these appellants [Record, p. 459], and $886.58 is decreed against Extension Purchasers. [Record, p. 484.] There is no room for controversy as to this amount.

6. Christian Waterman. This petition also is followed by a stipulation admitting that it is correct and satisfactorily proved. [Record pp. 234, 235.] This amount is decreed against these appellants, it being for labor performed on the Main Line. [Record, p. 458.] The correctness of this amount can not be disputed.

7. George Wooden. This petition furnishes its own proof. [Record. pp. 241, 242.] Its correctness as to amount has never been questioned. No evidence was introduced against it—none exists. Of this claim $5,629.78 is decreed against these appellants, and $804 25 against Extension Purchasers. [Record, pp. 477, 494.]

8. Thomas M. Rinn. This petition also furnishes its own proof. So complete and satisfactory was the proof—being the certificates of indebtedness issued by the company—that the appellants have omitted the proofs in making up this record. [Record, pp. 448, 449.] The amount of this claim is settled beyond controversy. It is all decreed against these appellants, being for labor and supplies performed on and furnished to the main line.

9. Second National Bank of Lafayette, Assignee of E. H. Mayo. This petition is followed by a stipulation that the claim was properly filed and certified, and omitting the proofs from this record. [Record, p. 238.] Appellants certainly can not question this amount, Of this claim $6,175.50 is decreed against appellants, and $882.21 is decreed against Extension Purchasers. [Record, pp. 459, 484.]

10. F. A. W. Davis and others. This petition is based wholly on certificates of indebtedness, issued by the company for labor and supplies performed and furnished in the

ordinary operation of the road. The petition, and accompanying certificates, proved the *amount* beyond all dispute. No evidence was introduced against these certificates.

The certificates themselves are omitted from the record. [Record pp. 127 to 131.] The master's report on this claim shows that *the least possible amount* was allowed to the petitioners. [Record pp. 232, 233.] This report, upon argument of exceptions, was confirmed by the court. [Record p. 454.] In view of this record, it would certainly seem *frivolous* to attack the *amount* decreed. Of the amount allowed petitioners, $16,962.09 is decreed against these appellants, and $2,413.32 is decreed against Extension purchasers. The distribution of the amounts decreed to the several claimants, as between the purchasers of the Main Line and the purchasers of the Extension, was made in accordance with a stipulation. [Record p. 497.] The purchasers of the Extension have paid all the decrees against them.

This leaves only *two* claims, viz: The claim of James A. Eads, receiver of the Paris and Danville Railroad Company, and the claim of the Western Car Company.

Upon the claim of Eads, receiver, etc., as originally filed and prosecuted, a large amount of evidence was taken, the greater part of which was taken in reference to the right-of-way part of the claim, which has since been fully settled and is not included in this decree. The claim, as allowed in the decree of October 31, 1881, is for coal consumed by the I., B. and W. Ry. Co., in the operation of its railway, between June 1, and December 1, 1874. The petition and exhibits are in the record. [Record, pp. 94 to 110.] A glance at the exhibits filed with this petition shows that the court, by the *six months' rule* applied to this case, cut off and rejected about *two-thirds* of the coal claim. The master's report allowed $18,522.98 for coal consumed during the six months, fixing the price per ton at $1.80. [Record, pp. 288, 289.] Upon a careful review of the case, upon argu-

ment on exceptions to the master's report, the court *reduced the amount* allowed by the master, to $16,464.90—fixing the price per ton at $1.60, instead of $1.80 Of this sum allowed by the court, $14,406.79 is decreed against these appellants, and $2,058.11 against Extension purchasers. [Record, pp. 452, 453.] After the evidence has been taken, examined, and passed upon by the master, as to the question of *amount*, and after the Circuit Judge has carefully reviewed and considered the evidence as to the *amount*, and adjudged the sum due, it seems to us, that it may well be termed *frivolous* to ask this court to again review the evidence *on a mere question of amount.*

The Western Car Company was made defendant to the Farmers' Loan and Trust Company's cross bill in the Indiana Court because it had taken judgment against the I., B. and W. Railway Company for $212,138.40 for the rent of its cars, due and accrued *prior* to July 1, 1874. The answer of the Western Car Company in the Indiana Court and its intervening petition in the Illinois Court, and the replication and answer of the Farmers' Loan and Trust Company thereto, are in the record. [Record, pp. 191 to 195, and 196 to 205] At the time the Receiver was appointed about $300,000.00 was due the Western Car Company for the rent of 1,175 freight cars, which constituted the main part of the freight equipment of the Railway Company in the line of cars.

Under the operation of the *six months rule*, applied to this case by the Circuit Judge, nearly $200,000.00 of the claim of the Car Company was rejected and disallowed. For the use of 1,172 cars during the six months next preceding the Receivership, Masters Howland and Howland, after taking a large amount of evidence, and upon full argument and consideration, allowed to petitioner $105,480.00. [Record, pp. 230 to 232.] Upon argument on exceptions to the report, the Circuit Judge carefully reviewed and considered the evidence, and *reduced* the amount

allowed by the Masters to $100,082.65—the $5,397.35 reduction being for so much money received by the Car Company on account during the *six months*, which payment the Car Company credited upon rent accrued *prior* to the six months, but the court applied all payments made during the six months to rent accrued during the same period, and rejected and disallowed wholly all indebtedness accrued prior to the *six months*. The findings of the court touching this claim are in the decree of October 31, 1881. [Record, pp. 450, 451.] Of the $100,082.65 decreed due, $87,028.39 is decreed against appellants Corbin, Taintor and Blossom. [Record p. 481], and $13,054.26 is decreed against purchasers of the Extension. [Record, p. 497.] As has been said regarding other claims, it seems *frivolous* to ask this, court to review evidence that has been fully considered by two special Masters, and carefully reviewed and considered by His Honor Judge Drummond, *upon the sole question of amount.*

We have now covered all the claims decreed, and submit that upon the face of the record, it is manifest that the appeal is simply for delay, and that the only question on which the jurisdiction depends—the question of the correctness of the several amounts decreed to these claimants—is so frivolous as not to need further argument. All evidence in the record in support of, or against, the allowance of the several claims adjudicated by the decree of October 31, 1881, will be printed and submitted herewith. As has been shown, almost all the claims decreed are covered by stipulations; the evidence touching those not so covered is in the record.

SECOND. Appellants have, in this court, admitted that they do not question the correctness of the several amounts decreed to these several claimants.

On page 22, of the argument filed in opposition to the motion to dismiss, submitted April 24, 1882, counsel for appellants, Corbin, Taintor and Blossom, say: "THE AP-

PELLANTS DO NOT DISPUTE, AND NEVER HAVE DISPUTED, THE CORRECTNESS OF THE AMOUNTS FIXED BY THE COURT. THEY HAVE NOT NOW, AND NEVER HAD, ANY CONTROVERSY WITH THE INDIVIDUAL CLAIMANTS."

Upon the face of the record, and upon the admission of appellants by their counsel, it is certainly true that this appeal —*when viewed as simply a contest against the several amounts decreed to these several claimants*, which, we contend, is the only question raised by the appeal—is frivolous and for delay merely.

7. If appellants now desire to limit their admission, applying it only to claims embraced in the motion to dismiss, and now avow their purpose to be to contest the *several amounts* in the cases in which the several decrees exceed $5,000, they will surely assume an illogical position. Their entire argument is based upon the theory that their sole controversy is with all of these claimants jointly. On the same page of their brief above cited we find this statement, viz: "The appellants' controversy is with all of them together, and the question is whether in fact and in law, a fund exists out of which these claims may lawfully be paid." It is clear that appellants claim that the decree of October 31, 1881, is one single decree in favor of all these claimants, while we contend that the record proves conclusively that the October decree contains 1163 *several decrees*, each based on a separate and distinct contract and state of facts, the only element in common being that all these several claims accrued in the operation of the I., B. & W. Ry.

Appellants claim the right under this appeal, to review questions determined and adjudicated by final decrees rendered more than four years ago and never appealed from, while we contend that the *only question* that can be raised by appeal from the decree of October 31, 1881, *is the single question adjudicated by that decree, viz: The amounts due on these several claims.*

If appellants now claim to contest the several amounts fixed by the court, *they must thereby admit that there does exist a* SEVERAL CONTROVERSY *between them and each of these several claimants.* If that is true our motion to dismiss—as to all decrees less than five thousand dollars in amount—for want of jurisdiction, is well taken, and amply supported by authority.

Oliver v. *Alexander*, 6 Peters, 143.
Stratton v. *Jarvis*, 8 Peters, 4.
Spear v. *Place*, 11 Howard, 522.
Rich v. *Lambert*, 12 Howard, 347.
Seaver v. *Bigelow*, 5 Wallace, 208.
Paving Co. v. *Mulford*, 10 Otto, 148.
Russell et al. v. *Stansell, Surv. Partner, etc.*, No. 929, October Term, 1881, U. S. S. C.

We have always conceded the right of appellants to question the *amount* decreed in each case where the decree exceeds five thousand dollars. By this motion and brief we simply desire to submit that the face of the record and the admissions of appellants, clearly show that this appeal, as to *all* the claims, large and small, is for delay merely, and is frivolous, if we are correct in our contention that the foreclosure decree, and the decree confirming the sale under that decree, *adjudicated all questions* excepting "the question as to the *amount* of the *claims* or *sums* to be allowed" to these claimants. We ask that this motion may be considered in connection with the motion to dismiss, now under submission, and that the decree of October 31, 1881, may be in all things affirmed.

Respectfully submitted,

McDONALD & BUTLER,
CLAYPOOL & KETCHAM,
Solicitors for Intervenors.

By John M. Butler.

Indianapolis, Ind., June 29, 1882.

OFFICE SUPREME COURT U. S.
FILED
OCT 7 1882
A. McKENNEY, Clerk.

EVENING POST JOB PRINTING OFFICE, 208 B'way, N. Y.

IN THE

Supreme Court of the United States,

OCTOBER TERM, 1882.

THE FARMERS' LOAN AND TRUST COMPANY AND OTHERS,
Appellants,

vs.

CHRISTIAN WATERMAN AND OTHERS,
Appellees.

No. 814.
(1212 *last term.*)

Appeal from the Circuit Court of the United States for the District of Indiana.

Argument in opposition to Appellees' motion to affirm.

JAMES D. CAMPBELL, *of Counsel.*

I.

Near the close of the last term we were called upon to oppose a motion to dismiss the appeals in this case, and, in the brief filed at that time, disclosed to the court, in a gen-

eral way, the nature of the controversy here. That motion still remains undisposed of. We are now confronted with a motion to affirm, on the ground that the appeal is taken for delay only, and the question involved is so frivolous as not to require argument in this court.

While we might object, as we understand the rules and practice of this court, to the joinder of these inconsistent motions—a motion to dismiss for want of jurisdiction, with a motion to affirm on grounds which necessarily confess the jurisdiction—we are not content to permit a challenge of the motives which lie behind our appeal to this court to review this record, to pass unanswered.

Before making specific reply to the re-statement of the argument, of which the present brief, filed on behalf of the appellees, mainly consists, we beg to suggest that the former discussion ought to be sufficient to show that the present motion cannot be justly sustained, either in respect to the magnitude of the questions involved, or the form in which they are presented for the consideration of the court, because that discussion clearly discloses:

First.—That from the beginning of this litigation to its end in the court below, there was a continuing contest between the Farmers' Loan and Trust Company and the bondholders whom they represent on the one side, and certain unsecured floating debt creditors on the other, in respect to a fund amounting to upwards of four hundred thousand dollars; a contest covering a period of seven years; and that during all that time neither party ever yielded for a moment to the claims and pretensions of the other in respect to this vast sum. Surely it may not be lightly said, in respect to either party to such a controversy, that an effort to secure the consideration of such a question by any of the constituted tribunals of the law, is only made for delay. Surely there is nothing in the history of the administation of justice to lead to the presumption that there can be no substantial error in the record of such a cause. This as to the magnitude of the controversy and the questions it involves or may involve.

Second.—It also appears by the former discussion that these bondholders, holding mortgage liens to the amount of upwards

of five million dollars, have, against their constant protest, been postponed to the extent of upwards of four hundred thousand dollars in favor of the appellees, who are unsecured floating debt creditors of their common debtor, without competent, legal evidence of any fact which, according to the rules and principles established by this court, would authorize or justify that postponement, and that, upon narrow and technical grounds, looking only to the form and not to the nature and substance of the procedure, the appellees have contended that this court has no jurisdiction to review the processes by which this result has been effected.

Third.—It also appears that the court below, while adopting unusual and irregular methods of procedure in the supposed interests of justice, and with a view to the conservation of a vast property, has at all times sought to preserve to these appellants the very right they are now endeavoring to secure, that is to say, the right to have the procedure and decree of that Honorable Court reviewed here—a right stipulated for at every step and stage of the proceedings, and expressly reserved in every decree or order substantially affecting the question; and that both the motion to dismiss and the present motion are in direct conflict with the express terms and the spirit and purpose of these reservations solemnly embodied in the decrees.

These suggestions alone, we humbly submit, abundantly negative the grounds relied upon to sustain the present motion and entitle appellants to be heard at the bar of this court. Nevertheless, we deem it to be our duty to point out more distinctly some of the many considerations, suggested by the record, showing that this motion may not justly be sustained.

II.

We object to the consideration of the present motion as a finality until the record has been printed and is fully before the court in accordance with the rule.

In explanation of this objection, we have to say that before the submission of the motion to dismiss for want of jurisdiction at the last term, it was stipulated between counsel that, *for the purposes of that motion*, a part only of the record should be printed, sufficient, as was supposed, to raise and to determine the question of jurisdiction. Pursuant to that stipulation, the appellants caused to be printed part 1 of the transcript, being that part of the printed record marked No. 1212.

Since the last term part 2 has been printed, being pages 628–996 of the printed record, containing certain documents and testimony wholly immaterial, in our judgment, to any question to be raised in this case.

There remains yet to be printed, however, all that part of the transcript showing the proceedings before the Special Master under the order of reference of February 13, 1880 (Record, 361), and all the testimony taken by him and upon which the final order for the payment of these claims is based.

Without this part of the record before them, it will be impossible for the court fully to consider the questions raised by the motion to affirm. These proceedings show—

1. That the claimants relied entirely upon certain tables and schedules prepared by an expert from the books of the company, and upon other immaterial and incompetent testimony, for proof of the facts involved in the order of reference.

2. That this form of evidence was strenuously objected to by the appellants, as against them, who are entire strangers to these transactions, and that they at all times insisted that proof of the facts should be made in accordance with the ordinary rules of evidence.

3. That there was no competent or legal evidence of any of the facts necessary to authorize or justify the order for the payment of these claims under the rules and principles established bythis court in *Fosdick* v. *Schall*.

4. That the books, paper and accounts of the company from which the statements were prepared by the expert, were in a state of *confusion* and *uncertainty*, introduced by *arbitrary* and

unwarrantable manipulation (see Master's report, Record, p. 408), so as to be utterly unworthy of any consideration as evidence.

5. These proceedings also show, in our judgment, that the exceptions to the report of the Master, set forth on pages 438, 439, and 440 of the printed record, should have been sustained; and finally,

6. These proceedings are necessary to show to the court the nature and character of the questions involved in this appeal.

The writer has delayed preparing this reply to the brief in support of the present motion, in the hope that he would be furnished with that portion of the record above referred to before the time fixed for submitting the motion. This brief is now filed, saving and reserving the objection, assuming that the record may yet be printed in due season.

III.

The argument in support of the motion to dismiss is mainly based upon the assumption that the decree of sale of July 24, 1877 (Record, 213) was a final decree respecting the payment of these claims, and only left to be determined the amount due the several claimants from the debtor company, under certain limitations mentioned in the decree. This assumption, we think, will appear, with very little examination, to be entirely unfounded. On the contrary, it does appear affirmatively that the decree was not final in respect to the rights of either the claimants or the trustees; that it was never treated by any of the parties as being final, and that it has been construed and acted upon by the court as simply interlocutory and not final in this regard.

1. *The decree not final.*

It is entirely obvious, from the cases cited in appellee's brief, that the solution, of the question whether a given decree is to be considered as final or otherwise depends altogether upon the nature of the matter in controversy and the effect of the decree. It also appears that a decree may be final in respect of some of the matters disposed of, and not as to others, in respect to some of the parties affected and not as to others. It may be entirely true that decrees of this character are not looked upon with favor, and that they are, or should be, discouraged. At the same time it cannot be denied that cases do arise where the Chancellor might, nay, ought, to dispose of certain matters finally, while leaving others in the same decree open to further controversy. At all events, it is not to be controverted that a Chancellor *may* so frame a decree as finally and effectually to determine and dispose of certain of the rights or the parties, while leaving other rights or parties still in litigation. Such things certainly have been done, and are likely to be done again. And because a decree has been so framed by the Chancellor as to be final as to some matters, it does not follow that the appellate court is bound to treat it as final in everything. Nor, because a decree is merely interlocutory in some respects, does it follow that the appellate court is bound to treat and consider it as wholly interlocutory.

The decree of July 21, 1877, was undoubtedly final in respect of some of the matters determined, and in respect of some of the parties. It was a final decree in fixing the amount due from the principal defendants to the mortgagees, and in decreeing the sale of the property. It was final in many other respects, which are not now, and never have been, in controversy. But it contained no element of *finality* in respect of the sums ultimately allowed to these complainants by the decree of October 31, 1881. It is final in this respect, neither in its substance nor its form. The provision in regard to these claims is contained in article 14 of the decree (Record, p. 219).

"That of the purchase money * * so much * * shall be paid into court in cash * * as shall be necessary to pay * * * that portion of all such other claims and sums of

which is not in dispute, and all of the appellants should be heard to object the decree finally passed.

III.

In their former brief, as well as that now filed, it is strenuously urged that neither the Farmers' Loan and Trust Company, nor the purchasers, can now be heard to object to the final decree, for the reason that the sale was made subject to the payment of these claims absolutely, by virtue of the modification of the original decree ordered, May 8, 1878 (Record, 304).

In the brief already filed we have called the attention of the court to the grounds upon which the appellants rest their right to be heard here, and we ask the attention of the court to what is there stated, in the consideration of the present motion.

To what has already been said, we only care to add that, if the provisions of the original decree had been carried out by a sale of the property, and the payment of the purchase money into court, the right of the bondholders and their trustee to assert their claim to the entire proceeds, both in the court below and in this court, could not have been successfully gainsaid. But the court saw fit, in the exercise of its discretion, to provide by the modification of the decree that this particular fund should, instead of being brought into court to abide the result of the litigation, remain in the hands of the purchaser, secured upon the body of the property itself, at all times saving the right of all parties interested to appeal to this court from any order disposing of that fund. We submit that this change of the custody of the fund made for the purpose of better protecting the interest of all the parties, and which is a matter of mere form, can neither be taken to deprive this court of its jurisdiction conferred by law, nor to deprive the parties of their right to be heard in this court, especially in the face of the express reservations by which the right of appeal was saved and preserved by the court.

If the fund had been brought into court, and subsequently distributed to the claimants, the trustee would have been aggrieved by the taking it away from its *cestuis que trust*. It is now aggrieved to the same extent, and in the same sense, by the effect of the decrees, because, at least, to the extent of the amount of these claims, the proceeds of the sale distributable to the bondholders was substantially diminished. It is not the form by which the result was reached, but the fact that this vast fund has been taken from the bondholders and distributed to these claimants, not in conformity to, but as we contend, in direct conflict with the principles of law laid down by this court, that is complained of, and we are confident that we have a clear right to submit both the process and the result to the scrutiny of this court.

That there is a substantial controversy here presented in good faith, and to be urged with great confidence of ultimate success, will sufficiently appear from the report of the Master (Record, 390), and the exceptions to the report (Record, 438) in connection with the order of the court (Record, 361) by which the inquiry was directed.

We expect to show to the court from this record :

1. That under the terms of the original order appointing the Receiver there was not one dollar of net earnings of this property at any time available for the payment of any of these claims.

2. That there is no competent or legal evidence of the diversion of any part of the earnings, either by the old company or by the Receiver to the payment of interest upon the bonded debt of the company, to the acquisition of new equipment, or to the making of lasting and valuable improvements.

3. That, on the contrary, all the disbursements of that nature were made out of the proceeds of bonds sold or hypothecated, and out of moneys borrowed from other persons than those who have presented claims therefor ; and

4. That in no respect does the decree appealed from, under the facts shown on the record, conform to the principles laid down by this court in the case of *Fosdick* v. *Schnoll*, and similar cases.

IV.

Counsel have again repeated in the present argument what was frequently reiterated in the former brief, to the effect that the trustee consented to these orders and decrees. This assertion we must again take occasion to deny. It should be sufficient to point the court to the express reservations contained in the several decrees saving and reserving the right to object and protest, and the right to appeal from any order distributing this fund to the claimants.

At the same time we feel bound to assert our entire disagreement with counsel when they take the ground that in chancery proceedings every order or decree should be taken as consented to unless an exception is noted at the time. We understand the rule to be directly to the contrary—that is to say, that unless the record shows in some form that an order has been made by consent, it remains open to review by the appellate court in a proper case and upon due assignment. No consent was ever given to any order ever entered in this suit, looking to the payment or ultimate allowance of any of these claims, except the agreement usually made in chancery cases by counsel, that a given order or decree is in conformity with the decisions of the court, and the instructions given respecting the draft, by the Chancellor. We point with great confidence to this record, in confirmation of this statement. There does not appear anywhere the slightest foundation for the repeated assertions of counsel that these orders were taken by consent.

Moreover, the record invariably shows, on the face of every important or material order, the express reservation of the right of the trustee and the purchasers to protest and object to the payment of these claims.

1. *The decree not final.*

It is entirely obvious, from the cases cited in appellee's brief, that the solution, of the question whether a given decree is to be considered as final or otherwise depends altogether upon the nature of the matter in controversy and the effect of the decree. It also appears that a decree may be final in respect of some of the matters disposed of, and not as to others, in respect to some of the parties affected and not as to others. It may be entirely true that decrees of this character are not looked upon with favor, and that they are, or should be, discouraged. At the same time it cannot be denied that cases do arise where the Chancellor might, nay, ought, to dispose of certain matters finally, while leaving others in the same decree open to further controversy. At all events, it is not to be controverted that a Chancellor *may* so frame a decree as finally and effectually to determine and dispose of certain of the rights or the parties, while leaving other rights or parties still in litigation. Such things certainly have been done, and are likely to be done again. And because a decree has been so framed by the Chancellor as to be final as to some matters, it does not follow that the appellate court is bound to treat it as final in everything. Nor, because a decree is merely interlocutory in some respects, does it follow that the appellate court is bound to treat and consider it as wholly interlocutory.

The decree of July 21, 1877, was undoubtedly final in respect of some of the matters determined, and in respect of some of the parties. It was a final decree in fixing the amount due from the principal defendants to the mortgagees, and in decreeing the sale of the property. It was final in many other respects, which are not now, and never have been, in controversy. But it contained no element of *finality* in respect of the sums ultimately allowed to these complainants by the decree of October 31, 1881. It is final in this respect, neither in its substance nor its form. The provision in regard to these claims is contained in article 14 of the decree (Record, p. 219).

"That of the purchase money * * so much * * shall be paid into court in cash * * as shall be necessary to pay * * * that portion of all such other claims and sums of

money as shall be hereinafter allowed by this court * * * in preference to the liens of the hereinbefore mentioned mortgages or deeds of trust, for debts due by said railway company for work, labor, supplies and materials done and furnished, during the six months next preceding the first day of December, A. D. 1874, which payment for debts due as last aforesaid, for six months prior to December 1, 1874, shall be made into court without prejudice to the right of the Farmers' Loan and Trust Company to object to the same, and to appeal from any order or orders which may be hereafter made by the court directing the money so paid to be distributed to the various claimants thereof."

So far as this subject is concerned, then the decree is merely interlocutory, and requires the payment of the fund into court, to be subsequently disposed of as the court may be advised upon further consideration. Notwithstanding these provisions, the court might, without the slightest inconsistency, have decreed the whole amount of the fund to the complainants to be distributed to its bondholders; and until the order had finally passed ordering the distribution of the fund to the claimants, no one could be aggrieved, nor could any party take an appeal.

In the nature of the circumstances existing at that time, it was utterly impossible that the court should have entered a final decree in respect of these claims. An inspection of the record will show that perhaps not one in a hundred of the claims had ever been presented at that time; and it is not to be conceived of for a moment, that a final decree was entered in favor of parties who had not yet come into court. It appears by the stipulation (Record, p. 195) that the bulk of these claims was first presented to the Masters Howland. The report of these Masters was not filed until November 7, 1877 (Record, 242), more than three months after the date of the entry of the decree!

Great stress is laid by counsel in argument upon the provision contained in a clause of paragraph 20 of the decree (Record' 223):

"And it is further ordered, that any of the parties to this action may apply to the court for such other or further directions at the foot of this decree as may be necessary to carry it into effect, no question being reserved except the question

as to the amount of the claims or sums of money to be allowed, as provided in the fourteenth clause of this decree. Such allowance or disallowance shall take effect as if now incorporated in and passed upon by this decree."

This clause, we submit, is not the decree, nor does it form any part of the decree. It is no more than a contemporaneous judicial construction put upon the decree by the learned judge, for the benefit of all parties; and its office and function is to declare the judicial intention to be that the decree is *not final* as to the subject reserved, but is to be taken as final and conclusive in respect to all matters not expressly reserved. Hence, the decree is final, except only "as to the amount of the claims or sums of money to be allowed, as provided in the fourteenth clause of this decree." It was not *final* in that regard, for the very obvious reason that up to that time not one-tenth of the claims had yet been presented to the court; nor had any inquiry yet been made or even directed in respect to the facts upon which an order for their allowance or disallowance could justly be made.

But counsel construe this language to mean that the court having already determined to allow *all* claims or sums of money for debts due by "said railway company for work, labor, supplies or materials done and furnished during the six months next preceeding the first day of December, 1874, in the operation of" said railroad, only intended to reserve the question of the amount of such liabilities of the old company which accrued within that period—whether there had been unjust and inequitable diversions from the earnings for the benefit of the bondholders or not, and whether there were any net earnings of the Receivership or not; and that it was absolutely and arbitrarily determined, without inquiry and without evidence, before the claimants were even in court, that these old debts should be paid, and the court only reserved to itself the time and opportunity to ascertain the amount of such indebtedness. And counsel also contend that the arbitrary and unwarranted and unwarrantable decree so entered not having been appealed from within the time limited by law, must stand as a finality. The mere statement of the proposition, it seems to us, should furnish its own refutation. We submit, on the contrary, that no such purpose can be im-

puted to the eminent and learned judge who framed the decree, and that even if, by some accident or omission, it should appear to have that effect, every intendment and presumption should be employed to avoid so unreasonable an interpretation.

On the other hand, we insist that it is the clear and fair meaning of the statement in the decree, that the court intended to reserve every question involved in determining the amount to be allowed to the claimants, if anything; that is to say, not merely the question as to the amount due to the several claimants from the old company, which was never disputed as to a vast majority of the claims, but also every question involved in fixing the amount of the available fund, including the question of the amount of the net earnings of the receivership, the amount of moneys diverted from earnings for the benefit of the bondholders, and also the question whether the fund could or might be taken from the proceeds of the sale. To construe this language otherwise, would, in effect, leave the great rights involved in this controversy to depend upon a mere verbal trick; and but for the earnestness, if not vehemence, with which the contrary view is urged here, we should be amazed that there could be the slightest doubt raised in regard to the correctness of our apprehension of this language.

But we are not obliged to rest upon these considerations alone.

2. *The learned judge has never interpreted or acted upon the decree as final, in respect to these claims.*

May 8, 1878 (Record, 304), nearly a year after the entry of the original decree, and as this court will judicially notice, long after the end of the term, the court entered an order modifying the terms of the original decree, by abrogating the provision of the original decree requiring the fund to be paid into court, and by providing that the fund should remain in the property, and the amount paid when ultimately determined, by the purchasers, in addition to their bid.

It is only on the assumption that the original decree was not final, that it was competent for the court to make this modification. If the decree was final, the court had no juris-

diction to so alter its form and substance after the end of the term, and the modification is absolutely void.

Although the Master's reports showing the amount of these several debts due by the old company were filed Nov. 7, 1877, the court forbore to order their payment, but suspended its judgment during the pendency in this court of the case of *Fosdick* v. *Schall*, and after the opinion was announced in that case directed an inquiry (Record, 361), February 13, 1880, nearly three years after the entry of the original decree, in respect to the question of inequitable diversions of earnings, &c., &c., which is altogether inconsistent with the decree, if it is to be taken as final.

Lastly, the basis of the final allowance of these claims as shown by the recitals of the final decree, is in direct conflict with the theory that the original decree was final. It is recited in the final decree (Record, 449):

"And the court, upon said reports and the evidence returned therewith, finds that within the period named in said order of February 18, 1880, the earnings of said Indianapolis, Bloomington and Western Railway that ought to have been applied to the payment of the several claims hereinafter referred to, were diverted to the payment of interest on bonded indebtedness of said railroad company, additional equipment purchased for, and lasting and valuable improvements made upon said railway to the amount of five hundred and eighty-seven thousand dollars."

This finding is made the basis of the final decree, and inasmuch as the inquiry upon which that finding is based was not even directed until nearly three years after the entry of the original decree, it clearly follows that the court itself did not act upon the original decree as being a finality, but proceeded to act upon the supposition that the entire subject was still open to consideration and determination up to the time of the rendition of the decree appealed from.

No final decree having been entered, therefore, until the decree of October 31, 1881, from which this appeal is taken, all the questions involved in the allowance of these claims are now before the court, excepting only as to the amounts of money due to the several claimants from the old company,

which is not in dispute, and all of the appellants should be heard to object the decree finally passed.

III.

In their former brief, as well as that now filed, it is strenuously urged that neither the Farmers' Loan and Trust Company, nor the purchasers, can now be heard to object to the final decree, for the reason that the sale was made subject to the payment of these claims absolutely, by virtue of the modification of the original decree ordered, May 8, 1878 (Record, 304).

In the brief already filed we have called the attention of the court to the grounds upon which the appellants rest their right to be heard here, and we ask the attention of the court to what is there stated, in the consideration of the present motion.

To what has already been said, we only care to add that, if the provisions of the original decree had been carried out by a sale of the property, and the payment of the purchase money into court, the right of the bondholders and their trustee to assert their claim to the entire proceeds, both in the court below and in this court, could not have been successfully gainsaid. But the court saw fit, in the exercise of its discretion, to provide by the modification of the decree that this particular fund should, instead of being brought into court to abide the result of the litigation, remain in the hands of the purchaser, secured upon the body of the property itself, at all times saving the right of all parties interested to appeal to this court from any order disposing of that fund. We submit that this change of the custody of the fund made for the purpose of better protecting the interest of all the parties, and which is a matter of mere form, can neither be taken to deprive this court of its jurisdiction conferred by law, nor to deprive the parties of their right to be heard in this court, especially in the face of the express reservations by which the right of appeal was saved and preserved by the court.

If the fund had been brought into court, and subsequently distributed to the claimants, the trustee would have been aggrieved by the taking it away from its *cestuis que trust*. It is now aggrieved to the same extent, and in the same sense, by the effect of the decrees, because, at least, to the extent of the amount of these claims, the proceeds of the sale distributable to the bondholders was substantially diminished. It is not the form by which the result was reached, but the fact that this vast fund has been taken from the bondholders and distributed to these claimants, not in conformity to, but as we contend, in direct conflict with the principles of law laid down by this court, that is complained of, and we are confident that we have a clear right to submit both the process and the result to the scrutiny of this court.

That there is a substantial controversy here presented in good faith, and to be urged with great confidence of ultimate success, will sufficiently appear from the report of the Master (Record, 390), and the exceptions to the report (Record, 438) in connection with the order of the court (Record, 361) by which the inquiry was directed.

We expect to show to the court from this record:

1. That under the terms of the original order appointing the Receiver there was not one dollar of net earnings of this property at any time available for the payment of any of these claims.

2. That there is no competent or legal evidence of the diversion of any part of the earnings, either by the old company or by the Receiver to the payment of interest upon the bonded debt of the company, to the acquisition of new equipment, or to the making of lasting and valuable improvements.

3. That, on the contrary, all the disbursements of that nature were made out of the proceeds of bonds sold or hypothecated, and out of moneys borrowed from other persons than those who have presented claims therefor; and

4. That in no respect does the decree appealed from, under the facts shown on the record, conform to the principles laid down by this court in the case of *Fosdick* v. *Schnoll*, and similar cases.

IV.

Counsel have again repeated in the present argument what was frequently reiterated in the former brief, to the effect that the trustee consented to these orders and decrees. This assertion we must again take occasion to deny. It should be sufficient to point the court to the express reservations contained in the several decrees saving and reserving the right to object and protest, and the right to appeal from any order distributing this fund to the claimants.

At the same time we feel bound to assert our entire disagreement with counsel when they take the ground that in chancery proceedings every order or decree should be taken as consented to unless an exception is noted at the time. We understand the rule to be directly to the contrary—that is to say, that unless the record shows in some form that an order has been made by consent, it remains open to review by the appellate court in a proper case and upon due assignment. No consent was ever given to any order ever entered in this suit, looking to the payment or ultimate allowance of any of these claims, except the agreement usually made in chancery cases by counsel, that a given order or decree is in conformity with the decisions of the court, and the instructions given respecting the draft, by the Chancellor. We point with great confidence to this record, in confirmation of this statement. There does not appear anywhere the slightest foundation for the repeated assertions of counsel that these orders were taken by consent.

Moreover, the record invariably shows, on the face of every important or material order, the express reservation of the right of the trustee and the purchasers to protest and object to the payment of these claims.

V.

It can scarcely be necessary, after the statements contained in the former brief, to repeat that the appellants have not now, and never have had, the slightest intention to raise any question in this court in respect to the distribution of the fund as between the several claimants. We protest that the court committed a grave error in awarding the payment of any part of any of these claims, for the reason that there is no fund from which they may lawfully be paid. On the other hand, if this court should determine that under the facts and the law there is an available fund for the payment of these claims or any part of them, then the appellants disclaim any interest in the distribution, because the disposition of the fund will be altogether immaterial to them, and will discharge no obligation of theirs.

Respectfully submitted,

J. D. CAMPBELL,
Of Counsel.

16-272

SUPREME COURT OF THE UNITED STATES.

No. 1,212.

THE FARMERS' LOAN AND TRUST COMPANY, AUSTIN CORBIN, GILES E. TAINTOR AND JOSIAH B. BLOSSOM, APPELLANTS,

vs.

CHRISTIAN WATERMAN, A. SNEDEKER, FREDERICK A. W. DAVIS ET. AL., PARTNERS AS THE INDIANA BANKING COMPANY, THE SECOND NATIONAL BANK OF LAFAYETTE, THOMAS G. GOLDEN, HENRY C. ADAMS, ASSIGNEE OF THE INDIANAPOLIS BRASS AND SUPPLY COMPANY, THE SECOND NATIONAL BANK OF PEORIA, ILLINOIS, THE INDIANAPOLIS ROLLING MILL COMPANY, GEORGE WOODEN, JAMES A. McKENZIE, THE PULLMAN PALACE CAR COMPANY, THE WESTERN CAR COMPANY, JAMES A. EADES, RECEIVER OF THE PARIS & DANVILLE R. R. CO., ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF INDIANA.

FILED MARCH 23, 1882.

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1 Pleas of the Circuit Court of the United States for the District of Indiana, begun and holden at the United States court-house in the city of Indianapolis, in said district, on the first Tuesday of May, in the year of our Lord one thousand eight hundred and eighty-one, before the Honorable Thomas Drummond and the Honorable Walter Q. Gresham, judges of said court.

MALCOLM C. TURNER et al.
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY. } Original Bill.

FARMERS' LOAN AND TRUST COMPANY
No. 4427. *v.*
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY et al. } Cross Bill.

CHARLES W. SMITH and ROBERT TURNER, Trustees,
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY et al. } Cross Bill.

Be it remembered that heretofore, to wit, at the May Term of said court, on the 2d day of May, A. D. 1876, before the Honorable Walter Q. Gresham, one of the judges of said court, the following proceedings in the above entitled cause were had, to wit:

2 Now at this day comes the Farmers' Loan and Trust Company, by J. Augustus Johnson and Robert E. Williams, its solicitors, and enter the appearance of the Farmers' Loan and Trust Company, and file the record of the Montgomery Circuit Court in the above entitled cause, and now file a cost bond in the same.

And now also at the same time comes the Western Car Company, by Messrs. McDonald and Butler, its solicitors, and enters its appearance to the cross bill herein.

And said record is in the words following, to wit:

Pleas at Crawfordsville, in the Circuit Court of Montgom-
3 ery county, in the 22d judicial circuit of the State of Indiana, and before the Honorable Albert D. Thomas, judge of said court, to wit:

Be it remembered that on the 18th day of November, 1874, it being the 3d judicial day of the November Term of *of* the Circuit Court of Montgomery county, in the 22d judicial circuit of the State of Indiana, before the Honorable Albert D. Thomas, sole judge of said court, the following complaint was filed in the case of

Circuit Court of Montgomery County, in November Term, 1874.

STATE OF INDIANA, } *ss.*
Montgomery County, }

Malcolm C. Turner, Thomas C. Turner, James Turner, Robert

Turner, Archibald Turner, George M. Turner, and Joseph S. Decker, who are copartners under the firm name and style of Turner Brothers, plaintiffs, who sue herein in behalf of themselves and all other bondholders and creditors of the Indianapolis, Bloomington and Western Railway Company who may desire to become parties hereto, and contribute to the expenses of maintaining this suit, com-
4 plain of the Indianapolis, Bloomington and Western Railway Company, the Farmers' Loan and Trust Company, William Dennison, Benjamin E. Smith, Robert Turner, and Joseph T. Thomas, defendants, and say:

1. That prior to July 12th, 1869, there was a railroad corporation organized and existing under the general laws of the State of Indiana, called the Indianapolis, Crawfordsville and Danville Railroad, which corporation was vested with full corporate power to locate, construct, and operate a line of railroad from Indianapolis, Marion county, Indiana, westwardly through the counties of Hendricks, Boone, Montgomery, Fountain and Warren, to the western boundary line of the State of Indiana, and to procure the means to build and operate such line of road the said corporation was vested with full corporate power to borrow money and issue bonds secured by a mortgage upon the said line of railroad and its appurtenances and appendages, and with all other capacities and power usually vested in such railroad companies under the laws of the State of Indiana, including the power to consolidate its stock and property with all connecting lines of railroad lying in another State. Prior to the said July 12th, 1869, the said Indianapolis, Crawfordsville and Dan-
ville Railroad Company had become and was then indebted
5 to divers persons and corporations in the sum of one million five hundred thousand dollars, evidenced by certain coupon bonds secured by a first mortgage on the entire line of railroad belonging to such corporation, together with its appurtenances, equipments, tolls and franchises.

2. By virtue of an act of the General Assembly of the State of Illinois, approved February 28th, 1867, there was created and organized a corporation of the State of Illinois, called the Danville, Urbana, Bloomington and Pekin Railroad Company, which said corporation, by virtue of such enactment, (a certified copy of which the plaintiff offers to produce as the court may direct,) was endowed with full corporate power to locate, construct and operate the line of railroad designated in said charter from Pekin, in Tazewell county, eastwardly, through Bloomington, Mt. Pleasant, Champaign, and Danville, to the eastern boundary line of the State of Illinois, and in order to raise the money necessary for the completing, equipping, operating and maintaining the said line of railroad the said last named corporation was authorized to issue and dispose of its
6 bonds, bearing interest not exceeding 10 per cent., and secure the payment of the debt so created, by a mortgage on the corporate property and the franchises; and in and by said charter and under the general laws of the State of Illinois in that behalf the

said Danville, Urbana, Bloomington and Pekin Railroad was further vested with full corporate capacity to lease and purchase other lines of railway, and also to consolidate its stock and property with those of any connecting line of railroad in another State; and the plaintiff prays reference to all and singular the laws of Illinois in that behalf.

3. In order to borrow money for the corporate purposes of the said Danville, Urbana, Bloomington and Pekin Railroad Company, and to complete, equip, operate, and maintain its said line of road, the said railroad company, as thereto by its charter and the laws of the State of Illinois it was fully authorized, on the 1st day of April, in the year of our Lord 1869, did sign, seal, execute, acknowledge, and deliver its certain deed of indenture, trust deed, or mortgage, a copy of which, together with such acknowledgment, is hereto attached, and marked Exhibit "A," and is prayed to be taken as part of this complaint, unto the defendant, the Farmers' Loan
7 and Trust Company, a corporation of the city of New York, for the uses and purposes in said conveyance at large expressed, conveying and transferring unto the said Farmers' Loan and Trust Company all and singular the line of the railroad then constructed, or authorized by law to be constructed from Pekin, in Tazewell county, Illinois, through, or as near as practicable to, the towns of Fremont, Mackinac, Concord, Bloomington, Lervy, Mount Pleasant, Mahomet, Champaign, city of Urbana, and St. Joseph to the eastern boundary line of the State of Illinois, and including all railways, rights-of-way, depot grounds and tracks, bridges, viaducts, culverts, fences, and other structures, depots, station houses, engine houses and other buildings, and all machine shops, and all other real or personal estate that was then held or thereafter to be acquired by the said company for use in connection with the said line of railroad, including all locomotives, tenders, cars, and other rolling stock, and all machinery, tools, implements, fuel, and material for constructing, operating and repairing or replacing the said railroad, or any
8 part thereof, together with the franchises connected with or relating to the construction, maintenance and use of the said railroad, and also the tolls, income and profits to be levied on the said property, the said conveyance being in certain conditions therein specified, for the purpose of securing the issue of two thousand bonds of $1,000 each, bearing semi-annual interest, payable at the said Farmers' Loan and Trust Company in American gold coin. And the said conveyance was duly recorded according to law, in all the counties through which the said Danville, Urbana, Bloomington and Pekin Railroad Company had located its said line of road within the time required by law; and did then and thereby become a first lien upon the said line of railroad from the city of Pekin eastwardly to the boundary line between the States of Indiana and Illinois.

4. And the said last named railroad corporation did proceed
9 under the protection of the said trust conveyance to issue, utter and put into circulation in the usual course of business

and for value the entire issue of bonds provided for in said indenture and amounting to the sum of $2,000,000; and the entire amount of said issue of bonds still continues outstanding and unpaid by the said railroad corporation which originally issued them, and its present successor, the Indianapolis, Bloomington and Western Railroad Company, defendant.

5. And by articles of confederation duly entered into between said Danville, Urbana, Bloomington and Pekin Railroad Company of Illinois, and the Indianapolis, Crawfordsville and Danville Railroad Company of Indiana, which bear date the 12th day of July, in the year 1869, and which were duly ratified by the board of directors and the stockholders of both said corporations, the said two last named corporations being thereto duly authorized by their respective charters and the laws of the States of Illinois and Indiana, their said roads intersecting and uniting and connecting at the State line, consolidated their stock and property and became one corporation, called the Indianapolis, Bloomington and Western Railroad Com-
10 pany; in pursuance of said article said last named corporation, by virtue of said consolidating articles and the laws of Indiana and Illinois in that behalf, became thereby vested with all and singular the property, estate, privileges and franchises, and subject to all the debts, liabilities and obligations of the two original companies which had executed the said articles of consolidation. The plaintiff files herewith a certified copy of such articles of consolidation, marked exhibit "B," and prays that the same may be taken as a part of this complaint.

6. Thereafter, on the 1st day of October, 1869, for the purpose of retiring the original issue of bonds made by the said Indianapolis, Crawfordsville and Danville Railroad Company to the amount of $1,500,000, and also the issue put into circulation by the Danville, Urbana, Bloomington and Pekin Railroad Company as aforesaid, amounting to $2,000,000, and for the further purpose of borrowing the money to provide new equipment and machinery for the adequate operation of the said new corporation, the Indianapo-
11 lis, Bloomington and Western Railroad Company, the said last named corporation did, under the authority of its board of directors, sign, seal, execute, acknowledge and deliver unto the defendant, the Farmers' Loan and Trust Company of the city of New York, as trustee, its said certain indenture of mortgage or trust deed, whereby it conveyed unto the said Farmers' Loan and Trust Company all and singular the railway of the said Indianapolis, Bloomington and Western Railway Company, extending from the city of Indianapolis through Crawfordsville, Indiana, through Danville, Urbana and Bloomington in the State of Illinois, to Pekin, being about two hundred and ten miles in length, with all its franchises, equipments, property, lands, tenements, buildings, fixtures, machinery, goods und chattels used in or connected with the operation of the said railway, including all rents, reservations, reversions of all nature and kind whatever, including all the property between

the said terminal points which the said railway company then had, owned, or possessed, or might thereafter acquire; the said indenture being executed in trust solely and as security for the punctual
12 payment of the principal and interest of the issue of 5,000 bonds, numbered from 1 to 5,000, bearing date the 1st of October, 1869, payable to bearer in the city of New York on the 1st day of October, 1909, principal and interest being payable in gold, together with semi-annual interest thereon, after the rate of seven per cent. per annum, evidenced by interest warrants or coupon obligations payable in the city of New York on the first days of April and October of each year. Plaintiff shows that the said instrument was spread of record in the proper recorder's office of each and every county through which the said line of road runs in Indiana and also in Illinois; and the plaintiff files herewith a copy of said mortgage or trust deed, together with the acknowledgments thereof, and prays that it may be taken as part of this complaint, marked Exhibit "C." And, as contemplated by said last named indenture, the said Indianapolis, Bloomington and Western Railway Company proceeded to and did actually retire all and singular the issue of $1,500,000 of the bonds of the Indianapolis, Crawfordsville and Danville Railroad Company hereinbefore mentioned, and issue in lieu and exchange thereof $1,500,000 of the issue of bonds
13 secured by the said indenture of October 1st, 1869, and did also issue and put into circulation in the usual course of business and for value a further amount of $1,500,000 of said last issue of bonds for the purpose of borrowing money for the corporate use and in order to provide additional equipments and machinery for the operation of said road; and, as the plaintiff is advised and so charges, no part of the issue of $2,000,000 of the Danville, Urbana, Bloomington and Pekin Railroad Company bonds hereinbefore specified was ever surrendered or exchanged for any portion of the bonds provided for by the indenture of October 1st, 1869, but that the entire amount of bonds issued under the provisions of said last named conveyance amount in the aggregate to $3,000,000 and no more, and that the remaining $2,000,000 of such issue is still in the custody of the Indianapolis, Bloomington and Western Railway Company and its agents and representatives, wholly unissued, and constitute no indebtedness of or lien upon the property of said corparation.

7. Afterwards, to wit, on the 1st day of October, 1870, the
14 said Indianapolis, Bloomington and Western Railway Company did, as thereto authorized by its charter, and under the orders of the board of directors of said company, sign, seal, execute, acknowledge, and deliver its certain other trust deed or mortgage conveying unto the defendants, William Dennison and Benjamin E. Smith, as trustee, for the uses therein expressed, all and singular the entire railway, extending from Indianapolis westward to Pekin, with all its franchises, equipments, property, lands, tenements, buildings, fixtures, machinery, goods, and chattels used in or connected with the operation of said railway, including all lands, reserva-

tions, and reversions of every nature and kind whatever, including all the property between said terminal points which the said railway company then had, or might thereafter acquire, the said conveyance being executed in trust and as security for the then contemplated issue of bonds to the amount of $1,500,000, called second mortgage bonds, intended by said corporation to be issued for the purpose of borrowing money for the equipment, operating, and uses of the said railway. The said indenture was duly recorded in the re-
15 corders' offices of the counties through which the said railway runs, both in the State of Indiana and the State of Illinois; and the plaintiff attaches hereto, marked Exhibit "D," a copy of said mortgage, together with the acknowledgments thereof, and prays that the same may be taken as a part of this complaint. And, under the protection and security of said indenture, the said Indianapolis, Bloomington and Western Railway Company did proceed to utter and put into general circulation in the usual course of business, and for value, its so-called second mortgage bonds, in the aggregate amounting to $1,500,000, dated on the 1st day of October, 1870, payable twenty years from date, bearing interest at the rate of eight per cent. per annum, evidenced by interest warrants, payable on the 1st days of January and July of each and every year. And the said $1,500,000 of second mortgage bonds still remain outstanding in the hands of divers persons and corporations, and have been and still remain unpaid by the said railway company, and constitute an indebtedness against it to the full amount of the principal
16 and the present unpaid interest thereupon.

8. Prior to the 28th day of June, 1872, there was a corporation of the State of Illinois called the Havanna, Mason City, Lincoln and Eastern Railway Company, being formed by a consolidation of a company of the same name with the Monticello Railroad Company, also of the State of Illinois.

The said last named corporation possessed certain franchises and privileges under its charter and the laws of the State of Illinois, and also a line of railroad in the process of construction from the city of Decatur to Champaign, in Champaign county, Illinois, and also from the last named point westwardly through Clinton, Lincoln, Mason City and Havanna to a point on the Mississippi River. Thereafter, on the 28th day of June, 1872, the said Havanna, Mason City, Lincoln and Eastern Railway Company, under due authority of its charter, did sign, seal, execute, acknowledge and deliver unto the Indianapolis, Bloomington and Western Railway Company, then and there duly empowered by its charter to receive such
17 grant, a deed of conveyance of all and singular the said line of railroad belonging to said Havanna, Mason City, Lincoln and Eastern Railway Company, then constructed and authorized to be constructed, together with all franchises, liberties and privileges in any manner pertaining to said line of road; a copy of said conveyance is hereunto annexed marked Exhibit "E," and plaintiffs pray it to be taken as a part of this complaint.

9. And on the 28th day of June, 1872, the said Indianapolis, Bloomington and Western Railway Company being then fully vested with the said line of railroad and franchises prior to that belonging to the Havanna, Mason City, Lincoln and Eastern Railway Company, in order to borrow money for the purpose of constructing, maintaining and operating its line of railroad, did, under authority of its board of directors, and as thereto duly authorized, did sign, seal, execute, acknowledge and deliver unto the defendants, William Dennison and Robert Turner, its certain other deed of trust
18 or mortgage conveying to said Dennison and Turner, all and singular the railway of said Indianapolis, Bloomington and Western Railway Company from Champaign, in Champaign county, Illinois, thence to the town of White Heath, in the county of Piatt; Clinton, De Witt county; Lincoln in Logan county; Mason City and Havanna, Mason county, westwardly to the Mississippi River, and also from the said town of White Heath by way of Monticello, Piatt county, to the city of Decatur, Macon county, all in the State of Illinois, and being in length about 215 miles, together with all the franchises, equipments, property, lands, tenements, fixtures, buildings, machinery, goods and chattels of every kind and nature used in or connected with the operation of said line of railroad, including all rents, reservations, reversions of every nature and kind whatever, and including all the property between said terminal points which the said railway company then owned or might thereafter acquire; the said indenture being in trust and as security for the punctual payment of the principal and interest of 5,500 bonds of said
19 railroad company, each for the sum of $1,000, bearing date July 1st, 1872, payable to bearer on July the 1st, 1912, principal and interest payable in gold coin of the United States, with interest warrants at the rate of seven per cent. per annum, payable on the 1st days of January and July in each year, at the office or agency of the company in the city of New York.

The plaintiff files herewith a full copy of said last named indenture, together with its acknowledgments, marked Exhibit "F," and pray that the same may be taken as part of this complaint. And the said indenture was duly recorded in all the counties of the State of Illinois through or into which the said property therein described and conveyed was situated, and as provided by the said indenture, and under the protection thereof, the said Indianapolis, Bloomington and Western Railway Company has either negotiated absolutely, or by way of hypothecation or security in the usual course of business, and for value, all and singular the said $5,500,000 of bonds
20 intended to be secured by the said conveyance. And the said amount of obligations commonly known as extension bonds is now outstanding against the said corporation, either absolutely or by hypothecation, and no part of the same has ever been paid, cancelled or retired by the said corporation.

10. The plaintiff shows that after the consolidation between the said Indianapolis, Crawfordsvile and Danville Railroad Company

with the Danville, Urbana, Bloomington and Pekin Railroad Company, the principal office of the said consolidated corporation, the Indianapolis, Bloomington and Western Railway Company, was located and has continuously ever since remained at the city of Urbana, Champaign county, Illinois, and that all of the meetings of the shareholders for the purpose of elections and the transaction of other corporate business has always been held at said last named place. Prior to the 8th day of August, 1870, the said Indianapolis, Bloomington and Western Railway Company possessed only a very small amount of equipment, compared with its present ownership,
21 and since the said 8th day of August, 1870, during all of which time its principal office has been at Urbana, it has purchased and acquired a large amount of personal property, consisting of engines, cars and tools, machinery and supplies, and that the value of such personal property so acquired by it since the 8th day of August, 1870, and now owned and possessed by it, amounts in the aggregate to about $1,500,000. Plaintiff shows that by virtue of the constitution of the State of Illinois adopted and in force on the said 8th day of August, 1870, it is declared that all of the rolling stock and movable property belonging to railroad companies shall be held to be personal property, and as such subject to execution and sale; and the plaintiff shows that in consequence of such constitutional provision, and the laws of the State enacted thereunder, it is claimed by certain of the creditors of said Indianapolis, Bloomington and Western Railway Company that no part of said $1,500,000 of personal property now belonging to said defendant railway corpo-
22 ration is in any manner now embraced in or subject to any lien or encumbrance of any of the different trust conveyances hereinbefore recited, for the reason that the said property has been acquired since such constitutional provision, since the date of said several mortgages, and that none of the said recited indentures of mortgages were executed, acknowledged, or recorded in such manner as to be valid liens under the laws of the State of Illinois on the personal property of a corporation having its principal office and place of business in said State, and for the further reason that under the laws of said State no encumbrance by way of mortgage upon goods and chattels is valid for a longer period of time than two years from the date of such instrument.

11. Plaintiff shows that for the corporate uses of said railway company, and as necessary for the purpose of constructing and operating the said road, also procuring means to pay interest upon the bonded liability of said corporation during the period of construction, and when the earnings derived from the operation of the road were not sufficient for the purposes, the said Indianapolis, Bloomington
23 and Western Railway Company had become indebted by way of notes, acceptances, and adjusted accounts and other obligations, to the amount of two million and a half of dollars, for which sum the negotiable paper of the said corporation, in some instances endorsed by some of its officers and directors, and also secured

by pledge and hypothecation of the bonds of said company, is now outstanding, and constitutes a liability of the said corporation in the hands of the different persons and corporations who are holders of the same. And the said liabilities being commercial paper of the said railway company, *is* becoming due from time to time, and the said corporation is without net earnings at present in consequence of a large decrease in the business of the company, consequent upon the financial difficulties of the times, to pay said commercial paper in the order of its maturity. Plaintiff shows that already in consequence of such inability suits have been begun in the different courts in Indiana and in Illinois, and also in the United States court, against
24 the said railway company, and that divers of its creditors are now, and many more threaten to take immediate steps to secure judgments against the said corporation, and issue execution thereupon, and levy upon the personal property of the said corporation which is necessary for its proper operation in its business as a common carrier, and thereby secure a priority over all other creditors in having such judgments and executions.

12. On the sixteenth day of November, 1874, said Indianapolis, Bloomington and Western Railway Company, by its president and secretary duly authorized, did sign, seal, execute, acknowledge, and deliver a certain trust conveyance or mortgage of all and singular its chattels and personal property therein more specifically described, to the defendant, Joseph T. Thomas, embracing therein all and singular the personal property of every kind, character, and description, in any manner belonging to the said corporation; the said trust mortgage being executed as security for the benefit, protection, and payment of all and singular such creditors as held the notes,
25 acceptances and obligations aforesaid, not included in the bonded issues hereinbefore described, but more specifically set out at large in said chattel mortgage. Plaintiffs file herewith a copy of said last named indenture, with its acknowledgment, marked Exhibit "G," and prays that it be taken as part of this complaint; the said mortgage was duly recorded as required by law, and, as plaintiffs are advised it will be claimed and charged, it constitutes as matter of law a first and paramount lien on all and singular the goods, chattels, and personal property therein described, anything in the said prior indentures to the contrary notwithstanding.

13. The plaintiffs show that in consequence of the general depression of business in the fall of the year 1873, and since, hitherto, the said railway company has not been able, out of its earnings, to provide for its commercial liabilities maturing from time to time, and also for the semi-annual installments of interest due upon the different classes of bonded obligations by it issued as aforesaid.
26 And that in consequence of such want of net earnings it made default in the payment of the interest of the mortgage of October 1st, 1869, on the 1st day of October, 1874, and also made default in the payment of the semi-annual installment of interest due on the two million of bonds issued in the name of Danville,

Urbana, Bloomington and Pekin Railroad Company, on the first day of October, 1874. And also made default in the payment of the semi-annual installment of interest due in July, 1874, on the so-called second mortgage bonds; and also made default on the semi-annual installment of interest due on the first day of July on the bonds commonly called extension bonds, and secured by the mortgage dated June 28th, 1872. And the plaintiff shows that no part of the several installments of interest due upon said different bonded obligations have ever been paid by the said corporation, nor have any part thereof, but the same still remains in arrears and constitute a just debt against the said corporation and a lien upon the property of the said company, according to the different legal and
27 equitable priorities as they may be determined as a matter of law by the court upon the said several indentures of mortgage hereinbefore recited.

14. And the plaintiffs further say that from time to time during the past three or four years they have loaned money to the said corporation for the purpose of paying interest upon the mortgage debt of the corporation, and also paying for labor and supplies necessary in the operation of said line of road. And the said railroad corporation is justly indebted to the plaintiffs in the sum of about eight hundred and sixty-five thousand dollars, exclusive of interest, as evidenced by the promissory notes and obligations and books of account of the said corporation, of which sum probably as much as five hundred thousand dollars of the sum now remaining unpaid is for money advanced by the plaintiffs to pay interest installments on the Danville, Urbana, Bloomington and Pekin Railroad Company bonds; and on the three million of bonds outstanding under the first mortgage executed by the Indianapolis, Bloomington and West-
28 ern Railway Company; and on the second mortgage of fifteen hundred thousand dollars issued by said last named railroad company; and the said corporation never having paid such installments of interest to the amount aforesaid, the plaintiffs claim and will to the court insist that all and singular the notes and acceptances of the said railroad company to the amount aforesaid of such interest payment are mere substitutions for and renewals of the different coupons and interest warrants falling due in October, 1874, and July, 1874, and that the plaintiffs are entitled by subrogation to the security and protection of such mortgage security precisely as though the said coupons for which payment was provided by the plaintiffs were still outstanding in the hands of the plaintiffs; and the plaintiffs submit that according to the terms of said mortgage the plaintiffs having, for the protection of their interests as subsequent mortgages and bondholders, paid such interest, are entitled to be first paid out of any proceeds of sale arising from such mortgaged property. And besides such debt so due as aforesaid to the plaintiffs, they show that they are the owners and holders
29 of bonds issued under the first mortgage of the said railway company defendant, and also owners and holders of the bonds

issued under the second mortgage of the said railway company, and also the owners and holders of one million three hundred thousand dollars of the bonds commonly called extension bonds, on all of which default has been made in the payment of interest as aforesaid, whereby the condition of said several mortgages given to secure such bonds and others of like class have been broken, and said mortgages have become forfeited; and the plaintiffs, as such bond creditors, are entitled to have the said mortgaged property income, tolls and franchises sequestered and sold and the proceeds applied according to the several liens, priorities and equities of all the parties interested in said mortgaged property as such liens, priorities and equities may be determined by the court.

15. The plaintiffs say that the entire line of railway belonging to said corporation, defendant, both in the State of Indiana and Illinois, has always been operated and worked as a unit and as one
30 continuous line of railway, and the equipments, engines, cars and material used in the operation thereof have been used indiscriminately over each and every part of the entire line, and no portion of such equipment has ever been apportioned to any particular part of the line of railroad, nor have the earnings or expenditures of any part of the line been kept separately from the earnings and expenditures of any other portion, but have been kept in one general account. And the plaintiffs are advised that at least one million of dollars of the money derived from the sale of extension bonds has been used in the purchase of equipment and betterments for the use and behoof of the original main line. And by reason of all and singular such matters, as the plaintiffs are by counsel advised, very many and complicated issues and conflicting claims are likely to arise as to the adjustment of the different liens and equities of the several classes of bond and floating debt creditors, and especially as to the status of the equipment and personal property now belonging to said corporation and acquired by it from time to time since its incorporation, and the plaintiffs were not, until quite recently, advised of the legal
31 status of such personal property, and the probable and conflicting claims thereupon and the exposure of the same to execution and sale, but had always, until a few days last past, supposed that the said mortgages under said different series of bonds were issued, were undoubtedly liens upon all and singular the equipment and personalty of the said railway corporation.

16. The plaintiffs therefore, in behalf of themselves and all other bond creditors and floating debt creditors having any liens upon the property of said corporation, pray that an account be taken of all and singular the debts and liabilities of the said Indianapolis, Bloomington and Western Railway Company, and of the relative rights, liens and priorities of all and singular such creditors in and upon the property and franchises of such corporation, and of the amounts now due respectively unto any and all such creditors, and that the said mortgages executed by said corporation on its real and personal property be foreclosed under the order of this court so far as the

same may be within its jurisdiction, and that the sale of said
32 property be ordered to be made under the direction of the court after the different liens and priorities are adjudged and decreed as hereinbefore prayed, and that out of the proceeds of such sale there shall be paid all and singular the amounts decreed to be due unto the plaintiffs and all other creditors of said railway corporation, according to their respective liens in or claims upon the property as they may be hereafter adjudged by the court.

17. And the plaintiffs further pray that inasmuch as the present resources of said corporation are insufficient to keep down the interest upon its bonded debt secured by mortgage, and the said corporation is unable to meet its obligations as they mature, and is therefore in imminent danger of insolvency, and because the recovery of judgments and the levy upon and forced sale of any of the personal property of said corporation would impair the efficiency of the said railway corporation to perform its duties to the public in the due and punctual operation of its road, and also tend to destroy and greatly impair the just security to which the plaintiffs and
33 other bond creditors are entitled, the court will forthwith appoint a receiver of the said corporation, according to equity practice, to take possession of said line of railroad and all its property, and hold and manage the same under the orders of the court from time to time entered in this cause.

And the plaintiffs pray for such other and further relief as to the court may seem proper and is necessary to protect the just liens and priorities of the plaintiffs in the premises.

HENRY CRAWFORD,
Attorney for Plaintiffs.

STATE OF INDIANA, }
Montgomery County, } *ss.*

Joseph S. Decker, upon his oath, says that he is one of the plaintiffs in the above entitled action, and that he has read over the foregoing complaint, and knows the contents thereof, and that the facts stated therein are true, as he verily believes.

JOSEPH S. DECKER.

Subscribed and sworn to before me this 18th day of November, 1874.

I. M. VANCE, *Clerk.*

34 *Exhibit "A."*

Danville, Urbana, Bloomington & Pekin Mortgage.

This indenture, made the first day of April, in the year of our Lord one thousand eight hundred and sixty-nine, between the Danville, Urbana, Bloomington and Pekin Railroad Co., incorporated under and by virtue of the laws of the State of Illinois, of the first part, and the Farmers' Loan and Trust Co., a corporation created by the laws of the State of New York, of the second part. Whereas,

in pursuance of the power and authority in it duly vested, the said Danville, Urbana, Bloomington and Pekin Railroad Co. have resolved to issue and negotiate a series of two thousand bonds, each of one thousand dollars, numbered respectively from 1 to 2,000, inclusive, and amounting in the aggregate to two million dollars, which said bonds are to be all equally secured by these presents, and are to be of like tenor and substantially in the form following:

UNITED STATES OF AMERICA,

No.—— THE STATE OF ILLINOIS. $1,000.

The Danville, Urbana, Bloomington and Pekin Railroad Co. first mortgage gold bearing bond, convertible into the capital stock of the company at par.

Know all men by these presents: That the Danville, Urbana, Bloomington and Pekin Railroad Co. is indebted to the Farmers' Loan and Trust Co., or bearer, in the sum of one thousand dollars gold coin of the United States of America, which the said
35 company promises to pay to the said the Farmers' Loan and Trust Co., or the bearer hereof, on the first day of April, in the year one thousand nine hundred and nine, at the city of New York, with interest thereon at the rate of seven per centum per annum, payable in gold semi-annually at the city of New York on the first days of April and October in each year, upon presentation and surrender of the coupons hereto annexed as they severally become due, and in case of non-payment of any half-yearly instalment of interest which shall have become payable and shall have been demanded, and the continuance of such default for the period of six months after any such demand, the principal of this bond shall become due, in the manner and with the effect provided in the deed of trust or mortgage securing the payment of the same, hereinafter mentioned. This bond is one of a series of two thousand bonds, each of one thousand dollars, of like tenor and date, numbered respectively from 1 to 2,000 inclusively, and amounting in the aggregate two million dollars, ($2,000,000,) and the payment of each and all of which is equally secured by a deed of trust or mortgage bearing date the first day of April, eighteen hundred and sixty-nine, duly executed and delivered by the said Railroad Co. to the said the Farmers' Loan and Trust Co., trustees, conveying the railroad of the said company and its equipments, appurtenances, property, franchises, and things in the said deed of trust or mortgage mentioned and described.
36 This bond is entitled to the benefit and security of a sinking fund of ten thousand dollars, provided for and described in said deed of trust or mortgage, to be set apart annually for the redemption of bonds secured by said deed of trust or mortgage. This bond shall pass by delivery, or it may be registered by its owner on the books of the company, at the office of the Farmers' Loan and Trust Co. in the city of New York; after a registration of ownership duly

certified hereon, at the aforesaid office, no transfer, except upon the books of the company, shall be valid unless the last transfer shall have been to bearer, and transferability by delivery thereby restored, but this bond shall continue subject to successive registrations and transfers to bearer as aforesaid, at the option of the holder. This bond shall not become obligatory until it shall have become authenticated by a certificate endorsed hereon and signed by the president of the Farmers' Loan and Trust Co. for the time being.

In witness whereof the said Co. has caused its corporate seal to be hereto affixed, and the same to be attested by its president and secretary, and has also caused the coupons hereto annexed to be signed by its secretary this first day of April, in the year one thousand eight hundred and sixty-nine.

C. R. GRIGGS, *President.*

W. J. ERMENTROUT, *Secretary.*

37 Now, therefore, this indenture witnesseth, that for and in consideration of the premises and of the sum of one dollar to the said parties of the first part duly paid by the said parties of the second part, and in order to secure the payment of the principal and interest of the said bonds according to the tenor thereof, and of the coupons thereto annexed, the said Danville, Urbana, Bloomington and Pekin Railroad Co., the parties of the first part thereto, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and transfer unto the said parties of the second part and their successors and assigns, all and singular the railroad of the parties of the first part, or which the said parties of the first part are by law authorized to construct, being the line of railroad heretofore known or hereafter to be known as the Danville, Urbana, Bloomington and Pekin Railroad, as the same is and hereafter shall be constructed, extending from the city of Pekin, in Tazewell county, through or as near as practicable to the towns of Tremont, Mackinawtown, Concord, Bloomington, Leroy, Mount Pleasant, Mahomet, Champaign City, Urbana and St. Joseph, to the east boundary of the State of Illinois, including all the railways, ways, rights of way, depot grounds, and other lands; all tracts, bridges, viaducts, culverts, fences, and other structures; depots, station houses, en-
38 gine houses, car houses, freight houses, wood houses, and other buildings, and all the machine shops and other shops, and all other real or personal estate held or acquired or hereafter to be held or acquired by the said company, its successors or assigns, for use in connection with the railroads of the parties of the first part, or with any part thereof, or with the business of the same, and including also all locomotives, tenders, cars, and other rolling stock or equipment, and all machinery, tools, implements, fuel and material for constructing, operating, replacing the said railroad, or any part thereof, or of any of the equipments or appurtenances of the said railroads or any part thereof, and all machinery of all kinds, and all and singular the other personal property of any nature, kind, and description whatsoever

belonging to the Danville, Urbana, Bloomington and Pekin Railroad Co., and all real estate of every kind belonging to the said Danville, Urbana, Bloomington and Pekin Railroad Co., wheresoever the same may be situated, and also all franchises connected with or relating to the said railroad, or to the construction, maintenance, or use of the said railroad and all the property, franchises, rights and things of whatsoever name or nature now held or hereafter to be acquired by the said parties of the first part or
39 their successors, together with all and singular the tenements, hereditaments and appurtenances to the said railroad lands and premises, or either thereof, belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, tolls, incomes, revenues, rents, issues, and profits thereof, and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity of the said parties of the first part of, in, and to the same and any and every part thereof, with the appurtenances; to have and to hold the above mentioned and described railroad branches, real estate, personal property and premises, with the appurtenances, unto the said parties of the second part, and their successors and assigns, to the only proper use, benefit, and behoof of the said parties of the second part and their successors and assigns, in trust, nevertheless, for the purposes herein expressed, to wit:

Article First. Until default shall be made by the said parties of the first part, their successors or assigns, in the payment of the principal or interest or some part thereof of the said bonds or some one of them, or until default shall be made in some payment into the sinking fund hereinafter mentioned, or in some other requirement hereof, the said parties of the first part, their successors and
40 assigns, shall be suffered and permitted to possess, manage, operate and enjoy the said railroad with its equipments and appurtenances, and also the lands and premises, property, and franchises hereinbefore described, and to receive, take, and use the tolls, incomes, revenues, rents, issues, and profits thereof in the same manner and with the same effect as if this mortgage had not been made.

Article Second. In case, first, default shall be made in the payment of any interest on any of the said bonds according to the tenor thereof or of the coupons thereto annexed, or in the payment of any part of the principal of said bonds or any of them when the same shall become due, and that any such default shall continue for the period of six months; or secondly, in case default shall be made in any payment by these presents required to be made into the sinking fund hereinafter mentioned, and that such default shall continue for the period of six months; thirdly, in case default shall be made in the performance or observance of one or other requirement hereof, and that such last mentioned default shall continue for the period of six months, then and in either of such cases it shall be lawful for the said trustees or their successors personally, or by their attorneys or agents, to enter into and upon all and singular the railroad

lands and premises hereby conveyed or intended so to be, and each and every part thereof, and to have, hold, and use the same,
41 operating by their superintendents, managers, receivers or servants, or other attorneys or agents the said railroads, and conducting the business thereof, and making from time to time all repairs or replacements and such useful alterations, additions and improvements thereto as may seem to them to be judicious, and collect and receive all tolls, freights, incomes, rents, issues and profits of the said railroad lands and premises, and of every part and parcel thereof, and after deducting the expenses of operating the railroads and conducting the business thereof, and all the expenses incurred in the holding and management of said lands and of all the said repairs, replacements, alterations, additions and improvements, and all payments which may be made for taxes, assessments upon the said premises or any part or parcel thereof, as well as just compensation for their own services and for the services of such attorneys and counsel as may have been by them employed, to apply the moneys arising as aforesaid to the payment of interest on the said bonds in the order in which such interest shall have become due, ratably, to the persons holding the coupons evidencing the right to such interest, and after paying all interest which shall have become due, apply the said moneys to the payment of the principal of such of the said bonds as may be at that time unpaid ratably and without dis-
42 crimination or preference, and if after satisfaction thereof a surplus shall remain to pay over such surplus to the said company, its successors or assigns, or as any court of competent jurisdiction shall order.

Article Third. In case default shall be made as aforesaid, and shall continue as aforesaid, it shall likewise be lawful for the said trustees or their successors after entry as aforesaid, or other entry, without entry, personally or by their attorneys or agents, to sell and dispose of all and singular the railroads, lands, and premises hereby conveyed or intended so to be at public auction at the city of New York, or at the city of Urbana, or at other such place within the State of Illinois as the said trustees or their successors shall designate, and at such time as they may appoint, having first given notice of the place and of the time of sale by advertisement published not less than three times a week for six weeks in one or more newspapers published in the city of New York, and also in one or more newspapers published in the State of Illinois, and wherever else required by law; and to adjourn the said sale from time to time in their discretion, and, if so adjourning, to make the same without further notice at the time and place to which the same may be so adjourned, and to make and deliver to the purchaser or purchasers of
43 the said premises good and sufficient deed or deeds in the law for the same in fee-simple, which sale made as aforesaid shall be a perpetual bar, both in law and equity, against the said parties of the first part, their successors and assigns, and all other persons claiming or to claim the said premises, or any part or parcel

thereof, by, from, through, or under the said parties of the first part, their successors or assigns, and after deducting from the proceeds of such sale just allowances for all expenses thereof, including attorneys' and counsel fees, and all other expenses, advances, or liabilities which may have been made or incurred by the said trustees in respect to the said railroad, lands, premises, or any part or parcel thereof, or operating or maintaining the said railroad or any part thereof, or in managing the business thereof while in their possession, and in arranging for and completing the sale aforesaid, and all the payments which may have been made by them of taxes or assessments on the said premises or any part thereof, as well as compensation for their own services, to apply the said proceeds to the payment of the principal of such of the said bonds as may be at that time unpaid, whether or not the same shall have previously become due, and of the interest which shall at that time have accrued on
45 the said principal, and be unpaid, without discrimination or preference, but ratably to the aggregate amount of such unpaid principal and accrued and unpaid interest; and if, after payment of the same in full, a surplus shall remain, to pay over such surplus to the said Co., or render the same as any court of competent jurisdiction shall order. And it is hereby declared and agreed of the receipt of the said trustees shall be a sufficient discharge to the purchaser or purchasers of the premises which shall be so sold as aforesaid, for his or their purchase-money, and that such purchaser or purchasers, his or their heirs, executors, or administrators shall not, after payment thereof and having such receipt, be liable to see to the application of such purchase-money upon or for the trust or purposes of these presents, or be in any manner whatever answerable for any loss, misapplication, or non-application of such purchase-money or of any part thereof, or be obliged to inquire into the necessity, expediency, or authority of or for any such sale.

Article Fourth. At any sale of the aforesaid property, or any part thereof, whether made by virtue of the power herein granted, or by judicial authority, the trustees may in their discretion bid for and purchase or cause to be bidden for and purchased the property
46 so sold, or any part thereof, in behalf of the holder of the bonds secured by this instrument, and then outstanding, in the proportion of the respective interests of such bondholders at a reasonable price; if but a portion of the said property shall be sold, or if all of it be sold, at a price not exceeding the whole amount of such bonds then outstanding, with the interest accrued thereon.

Article Fifth. In case default shall be made in the payment of any half-year's interest on any of the said bonds at the time and in the manner in the coupon issued therewith, provided the said coupon having been presented and the payment of the interest therein specified having been demanded, and that such default shall continue for the period of six months after the said coupon shall have become due and been demanded as aforesaid, then and thereupon the prin-

cipal of all the said bonds shall, at the election of the trustees, become immediately due and payable; but at any time before the interest in arrear shall be paid, a majority in interest of the holders of the said bonds may, by an instrument in writing, under their hands and seals, instruct the trustees to declare the said principal to be due, or to waive the right so to declare, on such terms and conditions as such majority in interest shall deem proper, or may annul or reverse the election of the trustees; provided that no action of the
47 trustees or bondholders shall extend to or to be taken to affect any subsequent default or impair the rights resulting therefrom.

Article Sixth. The said trustees shall also, in their own discretion, have full power to convey or release, upon the written request of the Danville, Urbana, Bloomington & Pekin Railroad Co., any lands acquired or held for the purpose of stations, depots, shops, or other buildings, and shall also have power to convey or return as aforesaid, on like request, any lands or property which in their judgment shall not be necessary for use in connection with the said railroad, or which may have been held for a supply of fuel, gravel, or other material; and also to convey or release as aforesaid, on like request, any lands not occupied by the track which may become disused by reason of a change in the location of any station house, depot, shop, or other adjacent building connected with the said railroad or any part thereof; and such lands not occupied by the track and adjacent to such station house, depot, shop, or other buildings, as the said company may deem expedient to disuse or abandon by reason of such change, and to consent to any such changes and to such other changes in the location of the track or depot or other buildings as in their judgment shall have become expedient; and to make
48 and deliver the instruments necessary or proper to carry the same into effect; but any lands which may be required for permanent use in substitution for any so released, shall be conveyed to the trustees upon the trusts of these presents; and trustees shall also have full power to allow the said company from time to time to dispose of, according to its discretion, such portion of the equipments, machinery and implements at any time held or acquired for the use of the said railroad as may have become unfit for such use, replacing the same by new, which shall be conveyed by the said Co. to the trustees, or to be otherwise made subject to the lien and operation of these presents.

Article Seventh. On the first day of April, eighteen hundred and seventy-three, and on the first day of April in each succeeding year thereafter, the said parties of the first part, their successors and assigns, for the further security and ultimate redemption of the bonds intended to be secured hereby and for the creation of a sinking fund for that purpose, shall pay to the trustees the full sum of ten thousand dollars, and the trustees shall deposit the sum to be paid over to them in the Farmers' Loan and Trust Company in the city of New York, or in some other depository which shall be, in their judgment,

49 safe, and the said moneys, together with all accumulations of interest therein, if any such may actually come into the hands or within the disposal of the trustees, shall be laid out and invested by them in the purchase of bonds secured by these presents upon the most favorable terms on which they can be purchased, but not exceeding the par of the said bonds and interest, and preparatory to such purchase of bonds the said trustees shall give ten days' notice thereof in one or more of the daily newspapers published in the city of New York and in the city of Urbana, in the State of Illinois, and shall make the said purchase at the lowest price or prices at which the bonds may be offered pursuant to such notice, or at such lower price or prices as the trustees may be able to obtain the same after such notice, or such purchase may be made in the discretion of the trustees at the brokers' board in the city of New York or at any public sale in said city, the expenses of said advertising and purchase being defrayed out of the moneys paid to the trustees as last above mentioned. The bonds so purchased with the coupons thereto annexed shall be immediately cancelled by the said trustees, and a certificate of the number and amount of said bonds shall be immediately furnished by the said trustees to the president of the said Dan-
50 ville, Urbana, Bloomington and Pekin Railroad Co. In case bonds secured by these presents cannot be purchased at par and interest, as above provided, within three months after the expiration of the notice as aforesaid, then the said trustees may in their discretion invest the said sinking fund moneys in such securities as may from time to time be recommended to them by the president of the said Danville, Urbana, Bloomington and Pekin Railroad Co., for the time being, or by the board of directors of said company.

Article Eighth. It is hereby declared and agreed that it shall be the duty of the trustees to exercise the power of entry hereby granted, or the power of sale hereby granted, or both, or to proceed by suit or suits in equity or at law to enforce the rights of the bondholders in the several cases of default herein specified, in the manner and subject to the qualifications herein expressed, upon the requisition of the bondholders herein required, as follows:

First. If the default be as to interest or principal of any of the said bonds or as to any payment into the sinking fund established by these presents, upon a requisition in writing signed by any holder or holders of not less than one hundred of said bonds and a
51 proper indemnification by such holder or holders to the trustees against the costs and expenses to be by them incurred, it shall be the duty of the trustees to enforce the rights of the bondholders under these presents by entry, sale or suit or suits in equity or at law, as they being advised by counsel learned in law shall deem most expedient for the interests of the holders of said bonds, subject to the power hereby declared of a majority in interest of the holders of said bonds, by a requisition in writing, under their hands and seals, to instruct the said trustees to waive such default upon the actual repayment of the interest in arrear, with interest

thereon and the expenses incurred by reason thereof, or upon adequate indemnity as aforesaid to enforce the rights of the bondholders by reason of such default; provided, that no action of the said trustees or bondholders, or both, in waiving such default, or otherwise, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom.

Second. If the default be in the omission of any act or thing required by these presents for the further assuring the title of the trustees to any property or franchise now possessed or here-
52 after acquired, or in the omission to comply with any pro-
visions of these presents to be observed, performed or kept by the said company, then, or in either of such cases, the trustees may enforce in their discretion and upon the requisition as aforesaid of a majority in amount of the holders of the bonds secured by these presents, it shall be their duty to enforce the rights of the bondholders by reason of such default, subject to the power hereby declared of a majority in interest of the holders of said bonds, by requisition in writing, to instruct the said trustees to waive such default, or upon adequate indemnity as aforesaid to enforce the rights of the bondholders by reason thereof; provided, that no action of the said trustees or bondholders, or both, in waiving such default, or otherwise, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom.

Article Ninth. If the parties of the first part shall well and truly pay or caused to be paid the principal of the said bonds when the same shall become due, and all interest thereon when the same shall have become payable and shall have been demanded according to the tenor of said bonds and coupons thereto annexed, and shall also make the payments into the sinking fund aforesaid by these presents required, and comply with all other requirements hereof, according to the true intent and meaning of these presents, then and in that case the estate, right and title and interest of the said
53 parties of the second part and their successors in the trust hereby created shall cease, determine, and become void, and otherwise the same shall be and remain in full force and virtue.

Article Tenth. It is mutually agreed by and between the parties hereto that the said trustees shall be entitled to just compensation for all services which they may hereafter render in their trust, to be paid by the said Co. or out of the income of the property, and for that purpose may at any time apply to the courts without notice to any person except the said parties of the first part, their successors or assigns; that said trustees or their successors may resign or discharge themselves of the trust created by these presents by notice in writing to the said Railroad Co., three months before such resignation shall take effect, or such shorter time as they may accept as adequate notice, and upon the due execution of the conveyance hereinafter required. That in case at any time hereafter the said trustees shall resign or become incapable to act in the said trust, their successor or successors shall be appointed by them with

the consent of the said Railroad Co., and the trustee or trustees so appointed shall thereupon become vested with all and singular the powers, authorities and estates granted to or conferred upon the parties of the second part by these presents and all the rights
54 and interests adequate to enable them or him to execute the purpose of this trust without any further assurance or conveyance so far as such effect may be lawful, but the parties of the second part shall immediately execute all such conveyances and other instruments as may be fit or expedient for the purpose of assuring the legal estate in the premises to the trustees so appointed; provided nevertheless, and it is hereby declared and agreed, that in case it shall at any time hereafter prove impracticable to appoint in the manner before provided a successor in any vacancy which may have happened in said trust application in behalf of all the holders of the bonds secured hereby may be made by the parties of the second part, or if the trust be wholly vacant by holders of the bonds secured hereby to the aggregate amount of one hundred thousand dollars to any Circuit Court of the United States for any judicial district in which any part of the aforesaid railroads may be situated, or to any other court of competent jurisdiction for the appointment of a new trustee or new trustees. And the said parties of the first part, for themselves, their successors and assigns, in consideration of the premises and of one dollar to them duly paid by the said parties of the second part, the receipt whereof is hereby acknowledged, hereby covenant and agree to and with the said parties of the second
55 part and their successors or assigns, that whenever and as often as the said parties of the first part, their successors or assigns, shall hereafter acquire any lands, or any equipment or any other property or things of whatever name or nature, for use in connection with the said railroad or any part of either thereof, or of any other railroad which the said company is authorized by law to construct, or shall acquire any other property, rights, franchises, or things whatsoever, the said parties of the first part, their successors and assigns shall and will acquire, possess, and hold the same and every part and parcel thereof, upon and subject to the trusts of this indenture, until the conveyance thereof in pursuance of the covenant next hereinafter contained shall be made duly and delivered to the said parties of the second part, or their successors in the trust by these presents created. And the said parties of the first part, for themselves, their successors and assigns, in consideration of the premises and of one dollar to them duly paid by the said parties of the second part, the receipt whereof is hereby acknowledged, hereby covenant and agree to and with the said parties of the second part, their successors and assigns, that the said parties of the first part, their successors and assigns, shall and will from time to time, and at all times hereafter, and as often as hereto requested by the trustees under this indenture, execute, deliver, and acknowledge all
56 such further deeds, conveyances, and assurances in the law for the better assuring unto the said parties of the second

part and their successors in said trust, upon the trust herein expressed, the railroads, equipments, appurtenances, franchises, property and things hereinbefore mentioned, and to which the said company is or may hereafter for any reason become entitled, or which the said company, its successors or assigns, may in any manner acquire, and also all other property, rights, franchises, and things whatsoever, which may hereafter be acquired by the said parties of the first part, their successors or assigns, as by the said trustees or their counsel learned in law shall be reasonably advised, devised or required; and it is also mutually understood and agreed between the parties hereto that the said parties of the second part and their successors in said trust shall be accountable, liable, or responsible for reasonable care and diligence only in the performance of the trusts hereby created, and in the management of the said estate and property in like manner as a bailee without reward, and shall not be accountable, liable, or responsible for the acts of any agent, depositary, or substitute employed by him or them, when such agent, depositary, or substitute shall have been selected with reasonable discretion.

In witness whereof the said parties of the first part have
57 caused their corporate seal to be hereto affixed, and the same to be attested by the signatures of their president and secretary, and the said parties of the second part have caused their corporate seal to be hereto affixed and the same to be attested by the signatures of their president and secretary, to evidence their acceptance of the trust hereby created the day and year first above written.

[SEAL.] C. R. GRIGGS,
Pres't of the Danville, Urbana, Bloomington and Pekin R. R. Co.
Attest:
W. J. ERMENTROUT, *Secretary.*

H. G. RALSTON, [L. S.]
Pres't of Fars. Loan and Trust Co.
GEO. P. FITCH, *Sec'y.*

Sealed and delivered in presence of Fred. W. Dodge as to each of the parties.

STATE OF NEW YORK, }
City and County of New York, } *ss.*

Be it remembered that on this thirteenth day of April, in the year of our Lord one thousand eight hundred and sixty-nine, in the city and county aforesaid, before me, Frederic W. Dodge, a commissioner, residing in said city, duly appointed a commissioner by the Governor of Illinois to take the acknowledgment and proof of the execution of deeds and other instruments in writing under seal, to be used and recorded in said State, personally appeared
58 R. G. Ralston, pres't, and G. P. Fitch, sec'y of the *the* Farmers' Loan and Trust Company, who are personally known to me to be the persons whose names are subscribed to the foregoing

indenture or instrument as having executed the same, and the said R. G. Ralston, president, and G. P. Fitch, secretary of the said Farmer Loan and Trust Comp'y, being by me severally duly sworn, deposed and said, each for himself, that they reside in the city of New York; that the seal affixed to the foregoing indenture and instrument is the corporate seal of the Farmers' Loan and Trust Company, and was affixed thereto by the authority and order of the said Farmer Loan and Trust Co., and that they subscribed their names thereto by like authority and order as such president and secretary respectively, and for the uses and purposes expressed in said instrument.

In witness whereof I have hereunto set my hand, affixed my official seal as commissioner of the said State of Illinois, at my office in the city and State of New York, this 13th day of April, A. D. 1869.

FREDERIC W. DODGE,
Commissioner of the State of Illinois for the City of New York.

STATE OF NEW YORK,
City and County of New York, } *ss.*

Be it remembered that on this 3d day of May, in the year
59 of our Lord one thousand eight hundred and sixty-nine, in the city and county aforesaid, before me, Frederic W. Dodge, a commissioner residing in said city, duly appointed a commissioner by the Governor of the State of Illinois to take the acknowledgment and proof of the execution of deeds and other instruments in writing under seal, to be used and recorded in said State of Illinois, personally appeared C. R. Griggs, president of the Danville, Urbana, Bloomington and Pekin Railroad Co., who is personally known to me to be the person whose name is subscribed to the foregoing indenture or instrument as having executed the same as such president. And the said C. P. Griggs being by me duly sworn did depose and say that he resided in the city of Urbana, county of Champaign, and State of Illinois; that he is the president of the said Danville, Urbana, Bloomington and Pekin Railroad Co.; that the seal affixed to the foregoing indenture or instrument is the corporate seal of the said the Danville, Urbana, Bloomington and Pekin Railroad Co., and was so affixed by authority and order of the board of directors of said Co., and that he signed his name thereto by like authority and order as president of said Co.; and the said C. R. Griggs acknowledged to me that he had executed the said indenture or instrument and signed, sealed and delivered the same as the free
60 and voluntary act and deed of the said the Danville, Urbana, Bloomington and Pekin Railroad Co., for the uses and purposes therein expressed.

In witness whereof I have hereunto set my hand and affixed my official seal as commissioner of the State of Illinois, at my office in the city of New York, this 3d day of May, A. D. 1869.

[SEAL.] FREDERIC N. DODGE,
Commissioner of the State of Illinois in the city of New York.

STATE OF NEW YORK,
City and County of New York, } ss.

Be it remembered that on this 3d day of May, one thousand eight hundred and sixty-nine, in the city and county aforesaid, before me, Frederic N. Dodge, a commissioner residing in said city, duly appointed a commissioner by the Governor of the State of Illinois to take the acknowledgment and proof of the execution of deeds and other instruments in writing under seal, to be used and recorded in said State of Illinois, personally appeared W. J. Ermentrout, secretary of the Danville, Urbana, Bloomington and Pekin Railroad Co., who is personally known to me to be the person whose name is subscribed to the foregoing instrument or indenture as having
61 executed the same as such secretary. And the said W. J. Ermentrout being by me duly sworn did depose and say that he resided in the city of Urbana, county of Champaign, and State of Illinois; that he is the secretary of the said the Danville, Urbana, Bloomington and Pekin Railroad Co.; that the seal affixed to the foregoing indenture or instrument is the corporate seal of the said the Danville, Urbana, Bloomington and Pekin Railroad Co., and was so affixed by authority and order of the board of directors of said company, and that he signed his name thereto by like authority and order as secretary of said company; and the said W. J. Ermentrout acknowledged to me that he had executed the said indenture or instrument as the free and voluntary act and deed of the said the Danville, Urbana, Bloomington and Pekin Railroad Co., for the uses and purposes therein expressed.

In witness whereof I have hereunto set and affixed my official seal as commissioner of the State of Illinois at my office in the city of New York, this 3d day of May, A. D. 1869.

[SEAL.] FREDERIC N. DODGE,
Commissioner of the State of Illinois in the city of New York.

62 UNITED STATES OF AMERICA, STATE OF ILLINOIS,
Office of Secretary of State, } ss.

I, Edward Rummel, Secretary of State of Illinois, do hereby certify that Frederic N. Dodge, before whom the acknowledgment of the foregoing instrument was made, is now and was at the time of taking thereof a commissioner of this State in and for the city of New York, in the State of New York, duly authorized and empowered by law to take the same; that I have compared the signature to the same and the impression of the seal thereto attached with the official signature and seal of the said commissioner on file in this office, and verily believe them to be the genuine official seal and signature of the said commissioner.

It witness whereof I hereto set my hand and affix the great seal of State at the city of Springfield this 7th day of May, A. D. 1869.

[SEAL.] EDWARD RUMMEL,
Secretary of State.

The bonds issued upon this mortgage are duly stamped. Filed May 6th, 1869. Recorded May 28th, 1869.

STATE OF ILLINOIS, }
McLean County, } *ss.*

I, S. F. Dolloff, clerk and ex-officio recorder of said county, in the State aforesaid, do certify that the foregoing to be a true copy of trust deed as recorded in my office in book 27, page 244, McLean County Mortgage Record.

Witness my hand and seal this 1st day of February, A. D. 1875.

S. F. DOLLOFF, *Clk.*
By W. M. REEVES, *Dep'ty.*

[Folios 63, 64, 65, and 66 were erased in printer's copy.]

Exhibit "B."

Articles of consolidation made and entered into this twelfth
67 day of July, in the year of our Lord one thousand eight hundred and sixty-nine, between the Indianapolis, Crawfordsville and Danville Railroad Company, a corporation existing under the laws of the State of Indiana, and the Danville, Urbana, Bloomington and Pekin Railroad Company, a corporation existing under the laws of the State of Illinois.

Whereas the railways respectively owned by the said companies above named constitute a continuous line of railway for the passage of cars from the city of Indianapolis, in the State of Indiana, to Pekin, in the State of Illinois, and the directors of said companies upon mature consideration have determined that the interest of the respective stockholders of said companies and the public interests and convenience will be greatly promoted by the union of their several roads into one road, and by the consolidation of the several stocks of said companies into one common consolidated stock;

And whereas the said companies are authorized by acts of the legislatures of the said several States to effect such union of their respective roads, and to form by consolidation of their respective rights and franchises one company, and have agreed so to do upon the terms and conditions hereinafter mentioned and contained:

Now, therefore, this agreement made by and between the
68 corporations aboved named, parties hereto, under and by virtue of the authority conferred upon them by the laws of the several States—

Witnesseth, That the said Indianapolis, Crawfordsville and Danville Railroad Company, and the said Danville, Urbana, Bloomington and Pekin Railroad Company do agree, and each for itself doth hereby severally agree, that the said companies shall be consolidated into and form one corporation under the name and style of the Indianapolis, Bloomington and Western Railway Company, and in pursuance of the said acts of the legislatures of the said several States

the said parties hereto do hereby prescribe the following terms and conditions of the said consolidation, and do respectively agree thereto and to the mode of carrying the same into effect as herein provided for:

Article 1st. The directors of said Indianapolis, Bloomington and Western Railway Company shall be thirteen in number.

Article 2nd. The first election for the directors of the said Indianapolis, Bloomington and Western Railway Company shall be held at the office of the said Danville, Urbana, Bloomington and Pekin Railroad Company, in the city of Urbana, State of Illinois, on the 8th day of September, 1869, between the hours of ten o'clock A. M. and three o'clock P. M., the following persons, to wit,
69 J. M. McKee and W. P. Chandler, both stockholders in one of the said companies, are hereby appointed inspectors or judges of said election, to perform the usual duties required by law in such cases. The inspector or inspectors attending at the time and place fixed for the election shall have power to fill any vacancy occasioned by the non-attendance of either one of their number; any person so appointed to fill a vacancy must be a stockholder in one of the companies parties hereto. Should neither of the inspectors attend at the time and place appointed for the election, the stockholders present at the time fixed for opening the polls shall have power by the vote of a majority in number of those present to choose two persons, being stockholders in one or both of said companies, who shall have power to act as judge of the said election. All stockholders in the several companies entitled to vote at any election of directors in the several companies parties to this agreement shall have the right to vote at the said election in person or by proxy, and shall be severally entitled to one vote for each fifty dollars of stock at its par value held by sub-stockholders in either of said companies. The thirteen persons being stockholders in one or both of the said companies parties hereto receiving the highest number of votes at the said election shall be the first directors of the Indianapolis,
70 Bloomington and Western Railway Company, and shall hold their office for one year and until their successors are chosen and qualified according to law.

Article 3d. Said directors shall, at the first meeting after their election, elect a president from their own number, and shall also then, or as soon thereafter as convenient, elect or appoint a secretary, treasurer, and superintendent of said company, and provide for the election or appointment of such other officers, engineers, clerks, agents, assistants, and other employees as they shall from time to time find necessary for the proper transaction of the business of said company.

Article 4. After the consolidation herein provided for is perfected, and after said first election, stockholders in said consolidated company, only by surrender and exchange of their certificates in their several companies, shall be entitled to vote at any meeting of the stockholders of said consolidated company.

Article 5th. The capital stock of the said Indianapolis, Bloomington and Western Railway Company shall be seven millions of dollars, to be divided into seventy thousand shares of one hundred dollars each, and the directors of said new corporation may increase the capital stock thereof when necessary, upon the approval of a majority in amount of the stockholders of said consolidated com-
71 pany.

Article 6th. It being agreed that the estate, property, and franchises of the said several companies parties hereto, which, in pursuance of the laws of said State, will vest in the said new corporation, are relatively of unequal value, the parties hereto, with a view to make compensation for such difference to the stockholders of the said companies respectively, do fix upon the following amounts to be allowed therefor, by the issue of certificates, or scrip, as hereinafter mentioned, to wit: First. The stockholders of the Danville, Urbana, Bloomington and Pekin Railroad Company shall each be entitled to one hundred dollars of the stock of the said Indianapolis, Bloomington and Western Railway Company for each one hundred dollars of stock held by them in the said Danville, Urbana, Bloomington and Pekin Railroad Company. Second. The stockholders of the said Indianapolis, Crawfordsville and Danville Railroad Company shall each be entitled to one hundred dollars of the stock of the said Indianapolis, Bloomington and Western Railroad Company for each one hundred dollars of stock held by them in the said Indianapolis, Crawfordsville and Danville Railroad Company, and in addition thereto shall be entitled to an increase of one million dollars of the stock of the said Indianapolis, Bloomington and Western Railway Company, to be distributed among them pro rata according
72 to the number of shares of stock at their par value they hold respectively in the said Indianapolis, Crawfordsville and Danville Railroad Company.

Article 7th. In all cases in which subscriptions or agreements with either of said companies parties hereto for the stock of either of said companies have been heretofore made by any person or persons or bodies politic or corporate, and said subscription or contracts for stock yet remain unpaid or unperformed, either in whole or in part, the stock of said consolidated company may, upon payment of said subscriptions, or performance of said contracts, be issued to the said subscribers in the same manner as the said several companies parties hereto would have been bound to issue their stock respectively had not this consolidation taken effect, and subject to the valuations hereinbefore specified.

Article 8th. When fractional shares shall be found due to the stockholders for premiums hereby agreed to be allowed, or for interest otherwise when converting their present stock into the stock of the consolidated company, scrip stock shall be issued for such fractions entitling the holder to a full share of stock on payment of the difference in money, or on presentation of one hundred dollars of such scrip stock.

Article 9th. The said new corporation shall, without de-
73 lay, after its organization, issue to the stockholders of the respective companies parties hereto, and entitled thereto as aforesaid, and in proportion to their respective interests in the stock of the consolidated company, certificates of stock in said Indianapolis, Bloomington, and Western Railway Company of such form as may be deemed advisable and be prescribed by the directors of said new company.

Article 10th. All and singular the rights, franchises, privileges, real estate, depot grounds, rights of way, road-bed, railway, iron rails, engines, cars, machinery, rolling stock, debts, dues, demands, choses in action, and property of every description, name and nature, in which the said Indianapolis, Crawfordsville and Danville Railroad Company and the Danville, Urbana, Bloomington and Pekin Railroad Company, have respectively any right, title, or interest, whether in possession, reversion or remainder, with the appurtenances, upon the ratification of these articles and the election of the first board of directors of said Indianapolis, Bloomington and Western Railway Company as herein and by law provided for, and from thenceforth shall be held, owned, and controlled by the said Indianapolis, Bloomington and Western Railway Company, their successors and assigns, as fully and completely to all in-
74 tents and purposes as the said several companies do or can now hold, use, and control the same, and no further conveyance or assurance shall be required for the full and complete vesting thereof in the said Indianapolis, Bloomington and Western Railway Company.

Article 11th. All the books, vouchers, records, muniments of title, and other documents pertaining to the business or property of the said several companies parties hereto shall be placed in the office of the secretary of the said consolidated company, and the said books, records, and papers shall be deemed and taken, so far as necessary, as the records and books of said consolidated company, and said books, records, vouchers, and papers shall be subject to the proper examination and inspection of all persons interested therein, who shall have the same access thereto as if the same had remained in the office of the original companies.

Article 12th. It is agreed that these articles of consolidation shall be submitted to the stockholders of each of said companies, parties hereto, at a meeting thereof called separately for the purpose of taking the same into consideration; due notice of the time and place of such meeting and the object thereof shall be given. The time of such meeting of the stockholders of the Indianapolis,
75 Crawfordsville and Danville Railroad Company shall be on the 18th day of August, 1869, and the place, the city of Crawfordsville, in the State of Indiana. The time of such meeting of the stockholders of the said Danville, Urbana, Bloomington and Pekin Railroad Company shall be on the 20th day of August, 1869, the place, the city of Urbana, in the State of Illinois.

Article 13th. All elections for directors of said consolidated company, after the first election of directors herein provided for, shall take place at such time and place and in such manner as may be prescribed by the by-laws of the board of directors of the consolidated company.

Article 14th. In witness whereof the corporate seal of the respective companies, parties to this agreement, have been hereunto affixed in quintuplicate by order and in the presence of the directors of each of said companies duly convened, a quorum of each of the said boards of directors being so present and assenting thereto, and is attested by their respective signatures hereto, on behalf and by order of said board of directors, and the president of each of said companies have also at the same time and in behalf of the said
76 respective companies hereto affixed their names in virtue of resolutions of said several boards of directors passed at respective meetings thereof.

THE INDIANAPOLIS, CRAWFORDSVILLE AND DANVILLE RAILROAD COMPANY,

By S. C. WILSON, President.

B. E. SMITH,
N. RICKETTS,
V. Q. IRWIN,
WINSLOW S. PIERCE,
M. D. MANSON,
E. M. McDONALD,
J. C. ELSTON,
JAS. M. McGEE,
} Directors.

Indianapolis, Crawfordsville and Danville Railroad.

DANVILLE, URBANA, BLOOMINGTON, AND PEKIN RAILROAD COMPANY,

By C. A. GRIGGS, President.

LEIS SMITH.
J. M. DOWNING.
WILLIAM Y. McCORD.
GEORGE MILLER,
HENRY CONKLING, M. D.
THOMAS KING.
H. K. GILLESPIE.
J. O. CUNNINGHAM.
J. C. SHIRT.
N. J. ERMENTROUT.
N. H. SMITH.

Danville, Urbana, Bloomington and Pekin Railroad. [SEAL.]

U. S. Rev. 50 cents.

77 *Exhibit C.*

Mortgage the Indianapolis, Bloomington and Western Railway Co. to the Farmers' Loan and Trust Co. of New York, October 1st, 1869.

This indenture, made the first day of October, in the year of our Lord one thousand eight hundred and sixty-nine, between the Indianapolis, Bloomington and Western Railway Company, a corporation of the States of Indiana and Illinois, the party of the first part, and the Farmers' Loan and Trust Company of the city of New York, as trustees, of the second part.

Whereas the Indianapolis, Crawfordsville and Danville Railroad Company, a corporation of the State of Indiana, lately of that name, whose road extended from Indianapolis, in Indiana, to the eastern line of the State of Illinois, at a point near Covington, and the Danville, Urbana, Bloomington and Pekin Railroad Company, a corporation of the State of Illinois, lately of that name, whose
78 road extended from Pekin, in the State of Illinois, eastward to a point in the State line, where it joined with the Indianapolis, Crawfordsville and Danville Railroad aforesaid, did, in the lawful exercise of their corporate powers, under their charters, and under the laws of the States of Indiana and Illinois, in due form of law consolidate themselves together and become one single corporation under the name of the Indianapolis, Bloomington and Western Railway Company, and thereby and by the articles of consolidation, assume and become liable for all the debts existing against each and both of the original corporations of which said consolidated corporation was composed, as by said articles of consolidation, duly filed of record, will more fully appear.

And whereas the said two corporations thus composing and being the party of the first part, have heretofore and before such consolidation become indebted by mortgage bonds made and issued by them respectively, and which indebtedness was made and
79 still is a lien on the respective parts of the road and property so consolidated and united, in the amounts following, to wit: The Indianapolis, Crawfordsville and Danville Railroad Company for the sum of not exceeding one million five hundred thousand dollars, ($1,500,000,) and the Danville, Urbana, Bloomington and Pekin Railroad Company for the sum of not exceeding two millions of dollars ($2,000,000.)

And whereas, at a meeting of the board of directors of the said Indianapolis, Bloomington and Western Railway Company, the party of the first part, held pursuant to law on the eighth day of September, in the year one thousand eight hundred and sixty-nine, it was recognized as expedient to reduce to a single form and class the two bonded debts aforesaid; and thereupon, for that purpose, the said board of directors resolved and passed a preamble and resolution as follows, to wit: "That whereas, in the opinion of this board

it is expedient for this company to reduce to a single form
80 and class all the bonded indebtedness of the Indianapolis, Bloomington and Western Railway Company growing out of the two million dollars of mortgage bonds issued by the Danville, Urbana, Bloomington and Pekin Railroad Company, and one million five hundred thousand dollars of mortgage bonds issued by the Indianapolis, Crawfordsville and Danville Railroad Company; and also to create a fund of one million five hundred thousand dollars to pay for new equipment and machinery to be provided for said Indianapolis, Bloomington and Western Railway Company, all which said mortgage bonds and funds for new equipments and machinery amounts in the aggregate to five millions of dollars:

It is therefore resolved by this board—

1st. That a new series of five thousand bonds of this company be prepared for issue and delivery, signed by the president and secretary, and authenticated when issued by the certificate of a trustee, each for the sum of one thousand dollars, to be numbered
81 consecutively from one to five thousand, bearing date the first of October, 1869, and payable to William Dennison, or bearer, in the city of New York, on the first day of October, 1909, principal and interest payable in gold free of government tax, with interest warrants thereto attached, signed by the secretary, for the payment of interest thereon, at the rate of seven per centum per annum in gold, payable in the city of New York on the successive first days of April and October of each year.

2d. That a deed of conveyance be prepared and executed, to be signed by the president and secretary, conveying the road and its appurtenances, and its appendages, its franchises, equipments, property, tools, income and interests, to a trustee, to secure the payment of said bonds and interest warrants, and in such form and with such provisions as the president of this company may by executing approve.

That unless the board of directors otherwise direct, the said bonds shall be used for no purpose except to be negotiated, substituted
82 or exchanged for the present outstanding bonds herein above mentioned, and for the said new equipment and machinery to the amount of one million five hundred thousand dollars, and so that by the surrender and payment of said outstanding bonds the whole bond indebtedness of this company may be included and expressed in and by the bonds prepared under this resolution.

3d. That a sinking fund of twenty-five thousand dollars annually, to provide for the payment of said bonds, shall be formed by setting apart on the first day of October, 1872, and each and every year thereafter on the first day of October, the sum of twenty-five thousand dollars. This sinking fund shall be kept and invested by three commissioners, one of whom shall be the president of the company; the other two shall be members of this board, one of whom shall be changed annually. They shall invest the said fund in the bonds of this company; otherwise at the discretion of the commissioners in

stocks of the United States or of the States of Indiana and Illinois.

83 4th. That the commissioners shall frame rules for the safety and management of the said trust, and file the same with the treasurer, and shall annually file their report with the treasurer, showing the condition, amount, and interest of said sinking fund.

And whereas the said Indianapolis, Bloomington and Western Railway Company, party of the first part, hath, in accordance with the said preamble and resolutions, made and executed bonds to the amount of five million dollars, of the numbers, form, designation, and character prescribed by said resolution, and hold the same to be issued and used for the purposes and manner therein described:

Now, therefore, in further pursuance of said resolution, and to the end and purpose of securing the payment of the said five million dollars of bonds, and every part thereof, this indenture witnesseth, that the said Indianapolis, Bloomington and Western Railway Company, party of the first part, in consideration of all and singular the premises, and for the further consideration of one dollar to them in hand paid by the said party of the second part, trustees as

84 aforesaid, doth hereby grant, bargain, sell, and convey to the said Farmers' Loan and Trust Company of the city of New York, trustees as aforesaid, party of the second part, and to their successors and assigns, all and singular the entire railway of the party of the first part, lying, being and extending from its terminus in the city of Indianapolis, in the State of Indiana, through Crawfordsville, in said last mentioned State, westward to the State of Illinois, and through Danville, Urbana, and Bloomington, in said State of Illinois, further westward to Pekin, altogether being in length of railways about two hundred and ten miles, about ninety-three miles thereof being in the State of Indiana and about one hundred and seventeen miles thereof in the State of Illinois, with all its franchises, equipments, property, lands, tenements, buildings, fixtures, machinery, goods, and chattels, used in or connected with the operations of said railway, including all rents, reservations, and reversions of every nature and kind whatever, including all

85 the property between said terminal points, which the said party of the first part now has, owns and possesses, or may hereafter acquire.

To have and to hold the said railway property, premises and rights hereby conveyed or so intended to be, unto the said party of the second part and their successors and assigns, for the sole use, benefit, and behoof of the said trustees, their *cestuis que trust*, their successors and assigns, forever, but upon the trusts and to the uses following, that is to say:

First. That this conveyance is for, and shall be by the said party of the second part, their successors and assigns, held, used, and owned solely for the benefit and protection and security of the persons and corporation who shall own and hold the bonds about to be

issued, as aforesaid, by the party of the first part, and for enforcing the stipulations of the said company as to said issue of bonds, and the disposal thereof, and securing the same, and the final payment thereof, in their true intent and meaning, whether contained in said bonds, or the interest warrants attached to them, or in this deed.

86 *Second.* That for the better securing and confirming the title and powers of the said party of the second part, their successors and assigns, in the said premises and property hereby conveyed, and in and to any premises and property or rights hereafter accruing, or to be acquired by said party of the first part, appurtenant to said railway, which is intended to pass or be passed by this conveyance, the said party of the first part, their successors and assigns, will and shall as often as may be lawfully required by the party of the second part or their successors or assigns, holding the above granted trust, do such acts and make such other and further conveyances and assurances in law as such party of the second part shall, by counsel learned in the law, be advised are necessary for the better carrying out of the object of the parties to this mortgage or deed of trust.

Third. That if the said party of the first part, their successors or assigns, shall well and truly pay to the owners or holders of said five million dollars of bonds, so to be issued and hereby secured,

87 the respective sums of money, and interest due and accruing on said bonds on the days and times therein mentioned, and according to the tenor and effect of said bonds, then and thenceforth this indenture and all the estate hereby granted shall become and be utterly void and of no further effect, and the same shall be, by such payment, wholly annulled and satisfied, without any further receipt or entry of satisfaction of record whatever, but shall be, if required, entered and certified on any record of the same as so satisfied by the party of the second part or their successors.

Fourth. That until default shall have been made by the party of the first part in the payment of principal or interest of the said bonds or some of them, or until default shall have been made in respect to something herein required to be done by the said party of the first part, the said party of the first part shall be suffered and permitted to possess, use, occupy, manage and operate the said railway, property and franchises and appurtenances, and to renew, replace,

88 and repair the same and every part thereof, and take and receive and use the tolls, rents, issues, incomes and profits thereof, and dispose of the same in any manner not inconsistent with this instrument.

Fifth. In case default shall be made in the payment of any interest of the aforesaid bonds, issued or to be issued, according to the tenor of the coupons thereto annexed, or of the provisions hereof, or in case default shall be made in the payment of the principal of said bonds, or any of them, when the same shall become due, without the consent of the holder of such bond on which such default shall occur, the said party of the first part hereby covenants and agrees to

and with the party of the second part and their successors and assigns that, within six months after such default shall have occurred, the same default still continuing, the said party of the first part, on demand of the said trustee or trustees for the time being, shall and will surrender to them or to their agent the actual possession of
89 the herein granted and demised railway and premises, together with all the books, records, papers, accounts, and money of said company, and all management and control thereof, and that all the expenses of taking, holding, managing, and operating said property, if possession be so taken, shall be paid from the incomes and profits thereof; and if said property shall, after such taking possession thereof, be sold, then from the sale thereof; or such expenses may be paid from the sale of any personal property as the said trustees may deem proper; and that said party of the second part and their successors, having taken such possession, may manage, operate, and control said road and property, and all of its affairs, and appoint all needful agents and employees for that purpose, and pay the same and receive all the incomes, issues, and profits thereof, and apply the same to the payment of the said interest so in default, according to the true intent and tenor of the said bonds and the coupons annexed, and to the terms of this deed, until such default shall have
90 been satisfied, if such incomes and profits will satisfy the same, first paying all expenses of such possession and management, and all taxes, assessments, charges, and prior liens on said property, and a just compensation for their own services as such trustees; but in any and all cases of such taking possession by said party of the second part, and paying up any such default, and the expenses aforesaid, the said party of the second part shall immediately thereafter re-deliver the said railway and premises, books, records, and money and accounts into the possession of the party of the first part; provided, that no such demand for such possession shall be made by said trustee or trustees until they shall have been required by the holders of at least the one-half of all the said issue of bonds, which shall then be unpaid and outstanding, to make such demand and to take such possession of said road and property.

Sixth. That in case default shall be made as aforesaid, and shall continue as aforesaid, it shall be lawful for the party of the second part, or their successors in said trust, after entry as aforesaid
91 or other entry, or without entry, personally or by agent or attorney, to sell and dispose of to the highest bidder all and singular the premises hereby conveyed or intended so to be, as an entirety at public auction, in the city of Indianapolis, Indiana, at such time as said party of the second part may appoint, first having demanded of the party of the first part full payment of all money then in default, and also first having given sixty days' notice of such time and place of sale and a full description of the property so to be sold, by advertisements thereof in three newspapers: one published in the State of Illinois, one published in the State of Indiana, and one published in the city of New York; and to adjourn said sale

from time to time, in their discretion, and if adjourned, to make such sale in manner aforesaid without further notice at the time and place to which it may be so adjourned, and upon such sale and receiving the purchase-money therefor, to convey the same by good and sufficient conveyances to the purchaser or purchasers; and such sale and conveyance so made shall convey all the right, title,
92 interest, estate and property of the said party of the first part of, in and to the said road, premises, franchises and property to the said purchaser in fee-simple forever; and shall be a perpetual bar, both in law and equity, against the said party of the first part and against their successors and assigns, and against all and every person claiming or to claim the said premises or any part thereof under them forever. After deducting from the proceeds of such sale the expenses of the sale and conveyance, and all advances or liabilities which may have been made or incurred by the party of the second part in operating and controlling and maintaining the said railway and property and in managing its business and affairs while in possession, and all payments for taxes, charges, assessments and liens prior to the lien of these presents on said premises or any part thereof, as well as reasonable compensation for their services, to apply the proceeds of such sale to the payment of the interest of said five millions of dollars of bonds, or so many of them as
93 shall have been issued by said party of the first part and be then outstanding, pro rata, until all such interest shall be paid, and afterwards to apply the remainder to the payment of the principal of said bonds, pro rata, until such principal shall be paid, and if any surplus be after paying all of said matters, to pay such surplus to the party of the first part; and such payment shall be so made on said bonds whether the same shall have become due or not at the time of such sale; provided, that said trustee or trustees may, in their discretion, sell the said premises as an entirety, subject to any or all mortgage liens on the same or any part thereof which may at the time have priority over the lien of these presents, and on doing so shall make legal distribution of the proceeds of such sale accordingly.

It is hereby declared that the receipt of said trustee or trustees, making any such sale to the purchaser of the premises for the purchase-money, shall be a full and sufficient discharge of such
94 purchaser therefor, and that said purchaser shall not, after payment of said purchase-money, and obtaining such receipt therefor, be liable or in any way bound to see said purchase-money applied to this trust or otherwise, or in any manner amenable for its loss or misapplication, or obliged to inquire into the authority for making such sale.

Seventh. At any sale of the property aforesaid, or any part thereof, made by virtue of these presents, or by judicial authority, the said trustee or trustees may bid for and purchase, or cause to be purchased, the property so sold, or any part of it, in behalf of the holders of said bonds, secured by this deed then outstanding, at a reason-

able price, if only a part be sold; but if the whole property be sold, at a price not exceeding the whole amount of said bonds and interest then outstanding.

Eighth. If default be made by the party of the first part in the payment of any half-year's interest on any of said bonds, and the warrant or coupon for such interest shall have been presented and its payment demanded, and such default shall have continued
95 six months after such demand, without the consent of the holder of such coupon or bond, then and thereupon the principal of all of the said bonds hereby secured shall be and become immediately due and payable, anything in such bonds to the contrary notwithstanding; and the said party of the second part may so declare the same, and notify the party of the first part thereof, and upon the written request of the holders of a majority of the said bonds then outstanding shall proceed to collect both principal and interest of all such bonds outstanding, by foreclosure and sale of said property or otherwise, as herein provided.

Ninth. It is hereby mutually agreed by the parties hereto, that the trustees shall be responsible only for gross negligence and wilful default, and that they shall not be bound to do any act touching the execution of the trust, except at their own option, which may involve them in personal expense or liability, unless first duly and satisfactorily indemnified against the same by one or more of said bondholders.

96 In case of the resignation or inability to act of the trustee aforesaid, the board of directors may appoint a successor, and failing to so appoint, any court of competent jurisdiction in either of the said States may appoint a trustee to fill such vacancy, on the application of the holders of the one-sixth part of the bonds hereby intended to be secured, then outstanding, and such appointment by the board or by such court shall invest the trustee so appointed with all the interest, estate, power, and authority in the premises, and subject him or them to the same obligations hereby given and granted to the party of the second part herein.

And the said party of the first part hereby covenants and agrees with the party of the second part and their successors, and with the holders of each and all of the said issue of five millions of dollars of bonds which may be issued, that the said party of the first part will create and make a sinking fund for the redemption of such bonds, and each of them, by setting aside and depositing
97 with three commissioners to be appointed by the party of the first part for that purpose, from and after the first day of October, in the year one thousand eight hundred and seventy-two, and annually thereafter until the maturity of said bonds, the sum of twenty-five thousand dollars, ($25,000). Such sinking fund moneys shall, from time to time, under the orders of the party of the first part, be invested in the purchase of the bonds so issued, or in bonds of the Government of the United States or of the States of Indiana or Illinois, and the money accruing on any and all of such investments for

interest, as fast as the same shall be received, shall be added and paid into said sinking fund and compounded therein continually and reinvested in like manner with the other money of said fund.

That the board of directors of said railway company, party of the first part, shall have entire control over the management of said sinking fund, and every person in charge of or connected
98 with the same, and shall, from time to time, direct in what bonds or securities it shall be invested, and at what prices or rates, and how it shall be kept, and the manner of keeping the accounts thereof; and shall require ample security to be given to them by any person in charge of its moneys or its securities or bonds, for safe-keeping.

Every bond of the said issue of five millions of dollars which may be purchased and held by said sinking fund shall remain in full force until the whole of such issue shall have been matured or shall have been so absorbed or otherwise redeemed by said party of the first part, or until cancelled as hereinafter provided; and the interest on such bonds held by said sinking fund shall be paid by said railway company regularly, as the interest on its other similar bonds is paid.

And the said party of the first part does hereby covenant to and with the party of the second part, and their successors, trustees as aforesaid, and to and with every person who shall be the holder of any one of the said issue of five millions of dollars of
99 bonds, that of the said issue the sum of three millions five hundred thousand dollars, numbered from No. 1,501 to No. 5,000 inclusive, shall be set aside and appropriated, and used only in exchange for and to satisfy the said outstanding first mortgage bonds which are liens on said property, or some part thereof, as hereinbefore mentioned and recited, and which were, before said consolidation, made and issued by the companies heretofore owning parts of said railway, and to liens of which the said several parts of said railway are still subject. That such payment or exchange of said three millions five hundred thousand dollars of bonds shall be made on such terms and at such times as may be ordered by the board of directors of said company, but that none of said sum of three millions five hundred thousand dollars of bonds hereby secured shall be exchanged or paid out for the bonds so to be satisfied and redeemed by them as aforesaid at less than dollar for dollar. That said three millions five hundred thousand dollars of said issue
100 of five million dollars hereby secured, or so intended to be, shall not be issued, used, disposed of or paid out for any other purpose or any other pretense whatever; and if they cannot be so paid out or exchanged, they shall be destroyed. The said party of the first part may nevertheless, in order to make such redemption or exchange in any case, sell any bond or bonds of said amount for money, and with the proceeds purchase and redeem not less than an equal amount of the bonds so to be paid and redeemed by them.

The board of directors of said company, party of the first part, shall appoint three suitable persons to act as bond fund commissioners, who shall have the sole charge and custody of the said three millions five hundred thousand dollars of said bonds, and of the issuing, exchanging and disposing of the same in the redemption of the first mortgage bonds they were issued to redeem. They shall be governed in all respects by the orders of the board and these presents, and shall report their action therein to the board of
101 directors of said company as often as required.

When any one of said several first mortgage bonds so herein provided to be redeemed shall be so exchanged for and received by said commissioners, the same shall not be cancelled until all of the class and issue of bonds to which it belongs shall have been redeemed by exchange or otherwise, but shall be registered by them as an exchanged bond, with the name of the owner who exchanged it, and the number and amount of the bond given in exchange for it, and filed away and safely kept by said commissioners for the following purpose, but for no other purpose or use, to wit: In case suit for default in the payment of interest or principal on any of the class of bonds so exchanged be instituted for the foreclosure and sale of the railway and property of the company, or in case of the foreclosure and sale of the railway and property of the company, the holders of any of the consolidated bonds received in exchange for any bond of the class on which said suit is insti-
102 tuted or foreclosure and sale made shall have the privilege of returning to the bond commissioners the consolidated bond so received by him, and receive therefor the bond for which he exchanged the same, equalizing the interest, and on such re-exchange said first mortgage bond shall be and remain in full force, and with its existing lien, and enure in all respects to the person who exchanged it as fully as if it had never been exchanged.

Whenever all of the said original mortgage bonds of any one issue or class shall have been exchanged for or redeemed said commissioners shall cancel and annul them all, and notify said board of directors thereof, and thereupon the said party of the first part shall cause such mortgage to be cancelled and satisfied on the records thereof.

It is understood and agreed by and between the parties hereto that no individual liability shall attach to any stockholders of the party of the first part in behalf of the holders of any of the bonds secured by this mortgage or deed of trust, and that the hold-
103 ers of said bonds rely solely on the property, rights and franchises of the party of the first part, covered by this mortgage, and the stipulations and covenants of the said party of the first part herein contained, for the payment of the principal and interest of the bonds so held by them.

In witness whereof the said Indianapolis, Bloomington and Western Railway Company, the party of the first part, has caused these presents to be executed and signed by the president of their com-

pany and attested by their secretary in their behalf and for the said company, and has caused the corporate seal of the company to be hereto affixed, and the said the Farmers' Loan and Trust Company have caused their corporate seal to be hereto affixed, and the same to be attested by the signatures of their president and secretary to evidence their acceptance of the trust hereby created the day and year first above written.

THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY,

[SEAL.] By C. R. GRIGGS, *President.*

104 Attest: A. P. LEWIS, *Secretary.*

R. G. ROLSTON,

[SEAL.] *Pres't. Farmers' Loan and Trust Co.*

GEO. P. FITCH,

Sec'y. F. L. & T. Co.

(The bonds herein mentioned will be duly stamped when issued with proper and sufficient U. S. revenue stamps.)

STATE OF ILLINOIS, CHAMPAIGN COUNTY, City of Urbana, } *ss.*

Be it remembered that on this 12th day of October, in the year of our Lord one thousand eight and sixty-nine, in the city and county aforesaid, before me, the undersigned, a clerk of the Circuit Court in and for said county, personally appeared C. R. Griggs, to me known to be the president of the Indianapolis, Bloomington and Western Railway Company, and who is personally known to me to be the person whose name is subscribed to the foregoing instrument as having executed the same as such president, and the said C. R. Griggs being by me duly sworn, did depose and say that he

105 resides in the said city of Urbana; that he was the president of the Indianapolis, Bloomington and Western Railway Company; that the seal affixed to the foregoing instrument was the corporate seal of the said Indianapolis, Bloomington and Western Railway Company, and was so affixed by order and authority of the board of directors of said company, and that he signed his name thereto of like authority and order as president of said company, and the said C. R. Griggs acknowledged to me that he had executed the said instrument and signed, sealed and delivered the same as the free and voluntary act and deed of the said Indianapolis, Bloomington and Western Railway Company for the uses and purposes therein expressed.

In testimony whereof I hereunto set my hand and affixed my official seal as such clerk as aforesaid, at the city of Urbana, in the county of Champaign and State of Illinois, this 12th day of October, in the year 1869.

[SEAL.] E. T. WHITCOMB,

Clerk Circuit Court.

106 STATE OF NEW YORK, } ss.
City and County of New York, }

Be it remembered that on the twentieth day of October, in the year of our Lord one thousand eight hundred and sixty-nine, in the aforesaid city and county of New York, before me, Frederic N. Dodge, a commissioner residing in said city, duly appointed a commissioner by the Governor of the State of Illinois, to take the acknowledgment and proof of the execution of deeds and other instruments in writing under seal, to be used and recorded in said State of Illinois, personally appeared R. G. Rolston, president of the Farmers' Loan and Trust Company, who is personally known to me to be the person whose name is subscribed to the foregoing instrument, as having executed the same as such president, and the said R. G. Rolston being by me duly sworn, did depose and say that he resided in the city of New York; that he was the president of the said Farmers' Loan and Trust Company; that the seal affixed to the foregoing instrument was the corporate seal of the said Farmers'
Loan and Trust Company, and was so affixed by order and
107 authority of the board of directors of said company, and that
he signed his name thereto by like authority and order as president of said company, and the said R. G. Rolston acknowledged to me that he had executed the said instrument and signed and sealed the same as the free and voluntary act and deed of the said Farmers' Loan and Trust Company for the uses and purposes therein expressed.

In testimony whereof I have hereunto set my hand and affixed my official seal, as commissioner of the said State of Illinois, at my office, in the city of New York, this twentieth day of October, A. D. 1869.

[SEAL.] FREDERIC N. DODGE,
Commissioner of the State of Illinois in and for the city and county of New York.

UNITED STATES OF AMERICA, STATE OF ILLINOIS, } ss.
Office of Secretary of State, }

I, Edward Rummel, Secretary of State of Illinois, hereby certify that Frederic N. Dodge, before whom the acknowledgment
108 of the foregoing instrument was made, is now, and was at the
time of taking hereof, a commissioner of this State in and for the city of New York, in the State of New York, duly authorized and empowered by law to take the same; that I have compared the signature to the same and the impression of the seal thereto attached with the official signature and seal of the said commissioner on file in this office, and verily believe them to be the genuine official seal and signature of the said commissioner.

In witness whereof I hereunto set my hand and affix the great seal of State, at the city of Springfield, this 22d day of October, A. D. 1869.

[SEAL.] EDWARD RUMMEL, *Secretary of State.*

STATE OF NEW YORK,
City and County of New York, } ss:

Be it remembered that on this twentieth day of October, in the year of our Lord one thousand eight hundred and sixty-nine, in the aforesaid city and county of New York, before me, Frederic N. Dodge, a commissioner residing in said city, duly appointed a commissioner by the governor of the State of Indiana to take the
109 acknowledgment and proof of the execution of deeds and other instruments in writing under seal to be used and recorded in said State of Indiana, personally appeared R. G. Rolston, president of the Farmers' Loan and Trust Company, who is personally known to me to be the person whose name is subscribed to the foregoing instrument as having executed the same as such president; and the said R. G. Rolston being by me duly sworn did depose and say that he resided in the city of New York; that he was the president of the Farmers' Loan and Trust Company; that the seal affixed to the foregoing instrument was the corporate seal of the said Farmers' Loan and Trust Company, and was so affixed by order and authority of the board of directors of said company, and that he signed his name thereto by like authority and order as president of said company; and the said R. G. Rolston acknowledged to me that he had executed the said instrument and signed and sealed the same as the free and voluntary act and deed of the said Farmers' Loan and Trust Company for the uses and purposes therein expressed.

110 In testimony whereof I have hereunto set my hand and affixed my official seal as a commissioner of the said State of Indiana, at my office in the said city of New York, this twentieth day of October, A. D. 1869.

FREDERIC N. DODGE,
[SEAL.] *Commissioner for the State of Indiana in the City and County of New York.*

STATE OF INDIANA,
Office of Secretary of State, } ss.

I, M. F. A. Hoffman, secretary of state for the State of Indiana, do hereby certify that Frederic N. Dodge, whose signature appears to the certificate of attestation last aforesaid was, at the time of so signing the same, to wit, the twentieth day of October, A. D. 1869, a commissioner of deeds for the State of Indiana in the State of New York, duly commissioned and qualified; that I believe his signature to be genuine; that his said attestation is in due form of law and that full faith and credit are due to the same.

In testimony whereof I have hereunto set my hand and affixed the seal of the State of Indiana, at the city of Indianapolis,
111 this 23rd day of October, A. D. 1869.

M. F. A. HOFFMANN,
[SEAL.] *Secretary of State.*

112 *Exhibit "D."*

Mortgage of the Indianapolis, Bloomington and Western Railway Company to Secure an Issue of $1,500,000 *Second Mortgage Bonds.*

This indenture, made and entered into this first (1st) day of October, A. D. one thousand eight hundred and seventy, by and between the Indianapolis, Bloomington, and Western Railway Company, a corporation existing under and by virtue of the laws of the States of Indiana and Illinois, party of the first part, and William Dennison and Benjamin E. Smith, of the city of Columbus, State of Ohio, as trustees, of the second part.

Whereas, at a meeting of the board of directors of the said Indianapolis, Bloomington and Western Railway Company, party of the first part, held pursuant to law on the fourteenth day of September, A. D. one thousand eight hundred and seventy, it was deemed expedient for the purpose of further equipping and operating the railway of said party of the first part, and for the further purpose of meeting the liabilities of the said party of the first part, of various kinds and descriptions then due and speedily maturing; therefore, for that purpose the said board of directors resolved and passed the following resolution, to wit:

113 *Resolved,* That the president be authorized and he is hereby empowered to cause to be issued and secured in the usual manner of issuing and securing such bonds, one million five hundred thousand dollars ($1,500,000) second mortgage bonds of the Indianapolis, Bloomington and Western Railway Company, said bonds to be payable, principal and interest, in the city of New York, twenty years from date of issue, to bear interest at the rate of eight per cent., payable semi-annually on the first day of January and the first day of July of each and every year, provided that the first payment of interest thereon shall be due on the first day of July, A. D. one thousand eight hundred and seventy-one (1871), and not before, and the bonds to bear date October first, A. D. one thousand eight hundred and seventy (1870).

And whereas the said Indianapolis, Bloomington and Western Railway Company, party of the first part, hath in accordance with said resolution made and executed bonds to the amount of one million five hundred thousand dollars ($1,500,000), of the character and designation prescribed by said resolution, and hold the same, to be issued and used for the purposes and manner herein described:

Now, therefore, in further pursuance of said resolution, and
114 to the end and purpose of securing the payment of the said one million five hundred thousand dollars ($1,500,000) of bonds, and every part thereof—

This indenture witnesseth, that the said Indianapolis, Bloomington & Western Railway Company, party of the first part, in consideration of all and singular the premises, and for the further consideration one dollar ($1.00) to them in hand paid by said trustees,

parties of the second part as aforesaid, doth hereby grant, bargain, sell, and convey to the said William Dennison and the said Benjamin E. Smith, of the city of Columbus, State of Ohio, trustees as aforesaid, parties of the second part, and to their successors and assigns, all and singular the entire railway of the party of the first part, lying, being, and extending from its terminus in the city of Indianapolis, State of Indiana, through Crawfordsville, in said last mentioned State, westward to the State of Illinois, and through Danville, Urbana and Bloomington, in said State of Illinois, further westward to Pekin, altogether being in length of railway track about two hundred and fourteen miles, about eighty-three miles thereof being in the State of Indiana, and about one hundred and thirty-one
115 miles thereof in the State of Illinois, with all its franchises, equipments, property, lands, tenements, buildings, fixtures, machinery, goods, and chattels used in or connected with the operation of said railway, including all rents, reservations and reversions, of every nature and kind whatever, including all the property between said terminal points, which the said party of the first part now has, owns, and possesses, or may hereafter acquire.

To have and to hold the said railway, property, premises, and rights hereby conveyed, or so intended to be, unto the said party of the second part, and their successors and assigns, for the sole use, benefit, and behoof of the said trustees, their *cestuis que trust*, their successors and assigns forever; but upon the trusts and to the uses following, that is to say:

First. That this conveyance is for and shall be by the said party of the second part, their successors and assigns, held, used, and owned solely for the benefit and protection and security of the persons and corporations, who shall hold and own the bonds issued and about to be issued as aforesaid, by the party of the first part, and for enforcing the stipulations of said company, as to said issue of
116 bonds and the disposal thereof, and securing the same and the final payment thereof, in their true intent and meaning, whether contained in said bonds, or the interest warrants attached to them, or in this deed.

Second. That for the better assuring and confirming the title and powers of the said party of the second part, their successors and assigns, in the said premises and property hereby conveyed, and in and to any premises and property or rights hereafter accruing, or to be acquired by said party of the first part appurtenent to said railway which is intended to pass or be passed by this conveyance, the said party of the first part, their successors and assigns, will and shall, as often as may be lawfully required by the party of the second part, or their successors or assigns, holding the above granted trust, do such acts and make such other and further conveyance and assurances in law as such party of the second part shall by counsel learned in the law be advised are necessary for the better carrying out of the object of the parties to this mortgage or deed of trust.

Third. That if the said party of the first part, their successors or

assigns, shall well and truly pay to the owners or holders of
117 said one million five hundred thousand dollars ($1,500,000)
of bonds, so to be issued and hereby secured, the respective sums of money and interest due and accruing on said bonds, on the days and times therein mentioned, and according to the tenor and effect of said bonds, there and thenceforth this indenture and all the estate hereby granted shall become and be utterly void and of no further effect, and the same shall be by such payment wholly annulled and satisfied without any further receipt or entry of satisfaction of record whatever, but shall be, if required, entered and certified on any record of the same as so satisfied by the party of the second part or their successors.

Fourth. That until default shall have been made by the party of the first part in the payment of principal or interest of the said bonds, or some of them, or until default shall have been made in respect to something herein required to be done by the said party of the first part, the said party of the first part shall be suffered and permitted to possess, use, occupy, manage, and operate the said railway, property,
and franchises and appurtenances, and to renew, replace, and
118 repair the same, and every part thereof, and take, and receive,
and use the tolls, rents, issues, incomes, and profits thereof, and dispose of the same in any manner not inconsistent with this instrument.

Fifth. In case default shall be made in the payment of any interest of the aforesaid bonds, issued or to be issued, according to the tenor of the coupons thereto annexed, or of the provisions hereof, or in case default shall be made in the payment of the principal of the said bonds, or any of them, when the same shall become due, without the consent of the holder of such bond on which such default shall occur, the said party of the first part covenants and agrees to and with the party of the second part, and their successors and assigns, that within six months after such default shall have occurred, the same default still continuing, the said party of the first part, on demand of the said trustee or trustees for the time being, shall and will surrender to them or to their agent the actual possession of the herein granted and demised railway and premises, together with all the books, records, papers, accounts, and money of said company, and all management and control thereof; and that all the expenses of
119 taking, holding, managing, and operating said property, if possession be so taken, shall be paid from the incomes and profits thereof; and if said property shall, after such taking possession thereof, be sold, then from the sale thereof; or such expenses may be paid from the sale of any personal property, as the said trustees may deem proper; and that said party of the second part, and their successors, having taken such possession, may manage, operate, and control said road and property and all of its affairs, and appoint all needful agents and employees for that purpose, and pay the same, and receive all the incomes, issues, and profits thereof, and apply the same to the payment of the said interest so in default, according to the true in-

tent and tenor of the said bonds and the coupons annexed, and to the terms of this deed, until such default shall have been satisfied, if such incomes and profits will satisfy the same, first paying all expenses of such possession and management, and all taxes, assessments, charges, and prior liens on said property, and a just compensation for their own services as such trustees. But in any and all cases of such taking of possession by said party of the second part, and
120 paying up any such default, and the expenses aforesaid, the said party of the second part shall, immediately thereafter, re-deliver the said railway and premises, books, records, and money and accounts into the possession of the party of the first part; provided that no such demand for such possession shall be made by said trustee or trustees until they shall have been required by the holders of at least the one-half of all the said issue of bonds which shall then be unpaid and outstanding, to make such demand, and to take such possession of said road and property.

Sixth. That in case default shall be made as aforesaid, and shall continue as aforesaid, it shall be lawful for the party of the second part, or their successors in said trust, after entry as aforesaid or other entry, or without entry, personally, or by agent or attorney, to sell and dispose of to the highest bidder all and singular the premises hereby conveyed or intended so to be, as an entirety at public auction, in the city of Chicago, Illinois, at such time as said party of the second part may appoint, first having demanded of the party of the first part full payment of all money then in default; and
121 also first having given sixty days' notice of such time and place of sale, and a full description of the property so to be sold, by advertisement thereof in three newspapers, one published in the State of Illinois, one published in the State of Indiana, and one published in the city of New York; and to adjourn said sale from time to time in their discretion, and if adjourned, to make such sale in manner aforesaid, without further notice, at the time and place to which it may be so adjourned, and upon such sale and receiving the purchase-money therefor to convey the same by good and sufficient conveyance to the purchaser or purchasers; and such sale and conveyance so made shall convey all the right, including equity of redemption, title, interest, estate and property of the said party of the first part, of, in and to the said road, premises, franchises and property, to the said purchaser, in fee-simple forever, and shall be a perpetual bar, both in law and equity, against the said party of the first part and against their successors and assigns and against all and every person claiming or to claim the said premises or any part thereof under them, forever. After deducting
122 from the proceeds of such sale the expenses of the sale and conveyance and all advances and liabilities which may have been made or incurred by the party of the second part in operating and controlling and maintaining the said railway and property, and in managing its business and affairs while in possession, and all payment of taxes, charges, assessments and liens prior to the lien of

these presents on said premises or any part thereof, as well as reasonable compensation for their services, to apply the proceeds of such sale to the payment of the interest of said one million five hundred thousand dollars of bonds or so many of them as shall be issued by said party of the first part and be then outstanding, pro rata, until all such interest shall be paid, and afterward to apply the remainder to the payment of the principal of said bonds, pro rata, until such principal shall be paid, and if any surplus be after paying all of said matters to pay such surplus to the party of the first part; and such payment shall be so made on said bonds, whether the same shall have become due or not at the time of such sale; provided that said trustee or trustees may in their discretion sell the said prem-
123 ises as an entirety, subject to any or all mortgage liens on the same or any part thereof which may at the time have priority over the lien of these presents; and on doing so shall make legal distribution of the proceeds of such sale accordingly. It is hereby declared that the receipt of said trustee or trustees making any such sale to the purchaser of the premises for the purchase-money shall be a full and sufficient discharge of such purchaser therefor, and that said purchaser shall not, after payment of said purchase-money and obtaining a receipt therefor, be liable or in any way bound to see said purchase-money applied to this trust or otherwise, or in any manner answerable for its loss or misapplication, or obliged to inquire into the authority for making such sale.

Seventh. At any sale of the property aforesaid or any part thereof, made by virtue of these presents or by judicial authority, the said trustee or trustees may bid for and purchase, or cause to be purchased, the party so sold or any part of it in behalf of the holders of said bonds, secured by this deed then outstanding, at a reasonable price, if only a part be sold; but if the whole property be
124 sold, at a price not exceeding the whole amount of said bonds and interest then outstanding.

Eighth. If default be made by the party of the first part, in the payment of any half-year's interest on any of said bonds, and the warrants or coupons for such interest shall have been presented and its payment demanded, and such default shall have continued six (6) months after such demand, without the consent of the holder of such coupon or bond, then and thereupon the principal of all of the said bonds hereby secured shall be and become immediately due and payable, anything in such bonds to the contrary notwithstanding; and the said party of the second part may so declare the same and notify the party of the first part thereof, and upon the written request of the holders of a majority of the said bonds then outstanding, shall proceed to collect both principal and interest on all such bonds outstanding, by foreclosure and sale of said property, or otherwise, as herein provided.

Ninth. It is hereby mutually agreed by the parties hereto that the trustees shall be responsible only for gross negligence and

willful default, and that they shall not be bound to do
125 any act, touching the execution of the trust, except at
their own option, which may involve them in personal expense or liability, unless first duly and satisfactorily indemnified against the same by one or more of said bondholders.

In case of the resignation or inability to act of the trustees aforesaid, or either of them, the board of directors may appoint a successor or successors, and failing so to appoint, any court of competent jurisdiction in either of the said States may appoint a trustee or trustees to fill such vacancy or vacancies on the application of the holders of one-fifth part of the bonds hereby intended to be secured, then outstanding, and such appointment by the board or by such court shall invest the trustee or trustees so appointed with all the interest, estate, power and authority in the premises, and subject him or them to the same obligations hereby given and granted to the party of the second part herein.

It is understood and agreed by and between the parties hereto, that no individual liability shall attach to any stockholder of the
party of the first part in behalf of the holder of any of the
126 bonds secured by this mortgage or deed of trust, anything in
the constitution or laws of either of said States to the contrary notwithstanding, and that the holder of said bonds may *solely* rely on the property, rights and franchises of the party of the first part covered by this mortgage, and the stipulations and covenants of the said party of the first part herein contained, for the payment of the principal and interest of the bonds so held by them.

In witness whereof the said Indianapolis, Bloomington & Western Railway Company has caused these presents to be executed and signed by the president of their company and attested by their secretary, in their behalf, and for the said company has caused the corporate seal of the company to be hereto affixed, and the said William Dennison and Benjamin E. Smith, trustees as aforesaid, have hereto affixed their hands and seals to evidence their acceptance of the trust hereby created, the day and year first above written.

INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY COMPANY,

[SEAL.] By C. R. GRIGGS, *President.*
Attest: A. P. LEWIS, *Secretary.*

{ The legal U. S. revenue stamp affixed to the bonds. }

127 W. DENNISON, [SEAL.]
B. E. SMITH, [SEAL.]
Trustees.

STATE OF ILLINOIS, CHAMPAIGN COUNTY, }
City of Urbana. }

Be it remembered that on this day of October, in the year of our Lord one thousand eight hundred and seventy, in the city and county aforesaid, before me, the undersigned, a clerk of the Circuit Court

in and for said county, personally appeared C. R. Griggs, to me known to be the president of the Indianapolis, Bloomington & Western Railroad Company, and who is personally known to me to be the person whose name is subscribed to the foregoing instrument as having executed the same as such president, and the said C. R. Griggs being by me duly sworn, did depose and say that he resides in the said city of Urbana; that he was the president of the Indianapolis, Bloomington and Western Railway Company; that the seal affixed to the foregoing instrument was the corporate seal of said Indianapolis, Bloomington & Western Railway Company, and was so affixed by authority and order of the board of directors of
128 said company, and that he signed his name thereto by like authority and order as president of said company, and the said C. R. Griggs acknowledged to me that he had executed the said instrument and signed, sealed, and delivered the same as the free and voluntary act and deed of said Indianapolis, Bloomington & Western Railway Company for the uses and purposes therein expressed.

In testimony whereof I set my hand and affix my official seal as such clerk as aforesaid, at the city of Urbana in the county of Champaign and State of Illinois, this 10th day of October, in the year one thousand eight hundred and seventy (1870).

[SEAL.] E. T. WHITCOMB, *Clerk.*

STATE OF OHIO, }
Franklin County, } *ss.*

Before me, the undersigned, a notary public of the State of Ohio, duly commissioned and qualified, personally came the above-named William Dennison and Benjamin E. Smith, trustees, and the party of the second part in foregoing mortgage and deed of trust, and both personally known to me as the persons who signed the
129 same as such, and each acknowledged that he did sign, seal, and execute the same for the uses and purposes therein mentioned.

In testimony whereof I have hereunto set my hand and affixed my notarial seal this 11th day of October, anno Domini 1870.

[SEAL.] AUGUSTUS BRADLEY,
Notary Public.

UNITED STATES OF AMERICA, OHIO, }
Office of the Secretary of State. }

I, Isaac R. Sherwood, secretary of the State of Ohio, do hereby certify that Augustus Bradley, whose attestation is attached to the foregoing instrument, was at the date of such attestation an acting notary public of the State of Ohio within and for the county of Franklin; that he is the proper officer to take such attestation, and that his official acts are entitled to full faith and credit.

In testimony whereof I have hereunto subscribed my name and affixed the seal of this office at Columbus, the 11th day of October,

in the year of our Lord one thousand eight hundred and seventy, and the ninety-fifth year of the Independence of the United States of America.

[SEAL.] ISAAC R. SHERWOOD,
Secretary of State.

130 Received for record at o'clock, minutes, 1870, and recorded 1870 in mortgage book pages
Recorder of county.

131 *Exhibit "E."*

Deed the Havana, Mason City, Lincoln and Eastern Railway Company to the Indianapolis, Bloomington and Western Railway Company.

This indenture, made and entered into this 28th day of June, A. D. 1872, by and between the Havana, Mason City, Lincoln and Eastern Railway Company, a corporation created by and existing under the laws of the State of Illinois, (the same having been formed by a consolidation of the Havana, Mason City, Lincoln and Eastern Railway Company, with the Monticello Railroad Company, corporations created by the laws of Illinois,) of the first part, and the Indianapolis, Bloomington and Western Railway Company, a corporation created by and existing under the laws of the State of Illinois, of the second part:

Witnesseth: That the said party of the first part, for and in consideration of the covenants, agreements, and undertakings to be performed by the said party of the second part, as hereinafter
132 set forth, has this day granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey unto the said party of the second part, all and singular the railroad, railroad lands, rights of way, stations, station grounds, lands, lots, bridges, furniture, tools, machinery, fuel, timber, iron, stone, materials, roadbed belonging to the said party of the first part, and its goods and chattels, and all and singular its lands, bills, notes, accounts, demands, subscriptions, moneys, and things in action, and all and singular its estates, property, effects real and personal, movable and immovable, at law and in equity, wherever situated; and all and singular its franchises, privileges, immunities, credits, and corporate rights; and all and singular the rights, franchises, railroads, roadbeds, rights of way, lands, and all property real and personal, and all choses in action of every kind and nature, including all donations and subscriptions, which were the property of the said Monticello Railroad Company, and of the Havana, Mason City, Lincoln and Eastern Railway Company respectively; to have and to hold forever.

133 And the said party of the first part hereby declares that all the property mentioned herein of every kind and description is vested in and held, owned, and possessed by the said Indianapolis, Bloomington and Western Railway Company, the said party of the second part, its successors and assigns, forever, to its own use, bene-

fit and behoof, to all intents and purposes. Which said property, for greater certainty, is described as follows, viz:

The railroad, track, lands, grounds, buildings, and property, the road-bed, sidings, switches, stations, depots, rights of way, and all rights, credits, subscriptions, and corporate franchises, which were of the Monticello Railroad Company, before and at the time of the consolidation with the said Havana, Mason City, Lincoln and Eastern Railway Company. Said Monticello Railroad commencing at the city of Decatur, in the county of Macon, in the State of Illinois; running thence to the town of Monticello, in the county of Piatt; thence to the city of Champaign, in the county of Champaign; thence
134 through the county of Vermillion to a junction with the Chicago, Danville and Vincennes Railroad, in the county of Iroquois; a distance of about eighty-five miles, all in the State of Illinois.

Also, the railroad, railroad lands, rights of way, grounds, buildings, and all rights, credits, subscriptions, and corporate franchises, which were of the Havana, Mason City, Lincoln and Eastern Railway Company, before and at the time of its consolidation with the said Monticello Railroad Company. Said Havana, Mason City, Lincoln and Eastern Railway commencing at some point on the Mississippi River, thence running eastwardly to Havana, Mason county, Illinois; thence to Mason City, in said Mason county; thence to Lincoln, in Logan county, Illinois; thence to Clinton, in De Witt county, Illinois; thence eastwardly to the east line of the State of Illinois. The said road having been located from said Havana to said Mason City, from thence to said Lincoln, from thence to said Clinton, and from thence to White Heath, in the county of Piatt; and thence to the
135 city of Champaign, in the county of Champaign, State of Illinois.

And said party of the second part further covenants and agrees, that it will within two years from the date of these presents construct, furnish and equip the said railroad hereby conveyed by the party of the first part from White Heath, in Piatt county, to Havana, on the Illinois River, by way of Clinton, in De Witt county, Lincoln, in Logan county, and Mason City, in Mason county. And it is further mutually agreed between the parties hereto, that if the said party of the second part shall fail to construct, finish and equip said road as mentioned within two years from the date of these presents, then, and in that event, all the property and corporate rights herein sold, granted and conveyed to the said party of the second part shall revert to and again become the property and franchises of the said party of the first part, to all intents and purposes.

And the said party of the first part does hereby grant, bargain, sell and convey all of the foregoing described property, real
136 and personal, and all of its corporate rights, and all its credits, privileges and immunities, of every kind, sort, nature and description, to the said Indianapolis, Bloomington and Western Railway Company, party of the second part.

To have and to hold the said property and premises, corporate

rights and privileges, which were of the said Havana, Mason City, Lincoln and Eastern Railway Company, and which were of the said Monticello Railroad Company, before and at the time of the formation and creation of the said party of the first part, by the consolidation of the said Havana, Mason City, Lincoln and Eastern Railway Company and the said Monticello Railroad Company, and which now are the property and premises, corporate rights and privileges of the said party of the first part, unto the said party of the second part, its assigns and successors, forever.

In consideration of which the said party of the second part hereby covenants and agrees to and with the said party of the first part, that all the present stockholders of the said party of the first
137 part shall be stockholders of the said Indianapolis, Bloomington and Western Railway Company, party of the second part, in the like amount and with the like liabilities and rights between them severally, and the said party of the second part, as now exists between them severally, and the said party of the first part.

And the said party of the first part hereby authorizes, empowers and directs all townships, counties and cities that have voted any bonds in aid either of the said Monticello Railroad Company, or in aid of the said Havana, Mason City, Lincoln and Eastern Railway Company, to deliver the same to the party of the second part, upon the same terms and conditions that the same were voted to the said Monticello Railroad Company and the said Havana, Mason City, Lincoln and Eastern Railway Company respectively.

It is understood between the parties hereto, that all the legal and valid contracts, bonds, certificates, deeds and other acts and writings of the party of the first part hereto, are hereby trans-
138 ferred to, and shall continue in full force and effect as the proper contracts, bonds, certificates, deeds, acts and writings of the said party of the second part, to all intents and purposes.

In witness whereof, the party of the first part hath caused its corporate seal, with the signatures of its president and secretary to be hereunto affixed, on this the twenty-eighth day of June, in the year of our Lord one thousand eight hundred and seventy-two.

HAVANA, MASON CITY, LINCOLN AND
[COMPANY SEAL.] EASTERN RAILWAY COMPANY,
By THOMAS SNELL, *President.*
Attest: LEWIS J. BOND,
Secretary of the Havana, Mason City, Lincoln and Eastern Railway Company.

STATE OF ILLINOIS, } *ss*:
Champaign County, }

On this 28th day of June, A. D. 1872, before the subscriber, a clerk of the Circuit Court in and for the city and county of Champaign, in the State of Illinois, personally appeared Thomas Snell, president of the Havana, Mason City, Lincoln and Eastern Railway

Company, and to me well known to be the person whose
139 signature is affixed to the foregoing indenture. And that the said Thomas Snell, being by me duly sworn, maketh oath and saith that he is the president of the Havana, Mason City, Lincoln and Eastern Railway Company, and by resolution of its board of directors was duly authorized to and did affix to the foregoing deed its common seal, and that the foregoing seal is its common seal, and he acknowledged that as such president he executed the same on behalf of said company, for the uses and purposes and therein specified.

And on the same day personally appeared before me, the subscriber, Lewis J. Bond, secretary of the said Havana, Mason City, Lincoln and Eastern Railway, and to me well known to be such secretary, and the real person who signed the foregoing indenture. And the said Lewis J. Bond, being by me duly sworn, maketh oath and saith he is the secretary of the Havana, Mason City, Lincoln and Eastern Railway Company, and that he was by its board of directors duly authorized to sign the foregoing indenture for the uses and purposes therein specified, and that he did so sign and exe-
140 cute the same. E. T. WHITCOMB,
[CIRCUIT COURT SEAL.] *Clerk Circuit Court.*

Exhibit "F."

Extension Mortgage Bond of the Indianapolis, Bloomington and Western Railway Company.

This indenture, made this twenty-eighth day of June, in the
141 year of our Lord one thousand eight hundred and seventy-two, between the Indianapolis, Bloomington and Western Railway Company, a corporation of the States of Indiana and Illinois, the party of the first part, and William Dennison, of the city of Columbus, State of Ohio, and Robert Turner, of the city of New York, as trustees of the second part.

Whereas, the Havana, Mason City, Lincoln and Eastern Railway Company, and the Monticello Railroad Company, both corporations of the State of Illinois, consolidated their property, stock and franchises under the laws of Illinois in due form of law, and gave to the consolidated company the name of the Havana, Mason City, Lincoln and Eastern Railway Company, and did so consolidate in the lawful exercise of their corporate powers under their charters and under the laws of the State of Illinois, and did by such consolidation
142 become one single corporation under the name aforesaid.

And whereas the said Havana, Mason City, Lincoln & Eastern Railway Company, by such consolidation, became possessed of all the property and franchises which were of the said Monticello Railroad Company, and the Havana, Mason City, Lincoln and Eastern Railway Company, before and at the time of said consolidation, which said property is described as follows: The railroad, track, lands, grounds, buildings and property, the road-bed, sidings, switches,

stations, depots, rights of way, and all rights, credits and subscriptions which were of the said Monticello Railroad Company before and at the time of said consolidation. Said Monticello Railroad commencing at the city of Decatur, in the county of Macon, in the State of Illinois, running thence to the town of Monticello, in the county of Piatt; thence to the city of Champaign, in the county of Champaign; thence through the county of Vermillion to a junction with the Chicago, Danville and Vincennes Rail-
143 road, in the county of Iroquois, a distance of about eighty-five miles, all in the State of Illinois. And the railroad, track, lands, grounds, buildings and property, the road-bed, sidings, stations, switches, depots, rights of way, and all rights, credits, subscriptions and franchises which were of the said Havana, Mason City, Lincoln and Eastern Railway Company before and at the time of the said consolidation. Said Havana, Mason City, Lincoln and Eastern Railway commencing at some point on the Mississippi River, thence running eastwardly to Havana, Mason county, Illinois; thence to Mason City in said Mason county; thence to the city of Lincoln, in Logan county, Illinois; thence to Clinton, in DeWitt county, Illinois; thence eastwardly to the east line of the State of Illinois.

And whereas at a meeting of the board of directors of the Indianapolis, Bloomington and Western Railway Company, party of the first part herein, held pursuant to law, on the 28th day of June, in the year of our Lord one thousand eight hundred and seventy-two, it was recognized and deemed as expedient for the Indianap-
144 olis, Bloomington and Western Railway Company to purchase of the Havana, Mason City, Lincoln and Eastern Railway Company, the same being the said consolidated company, all the said property mentioned, together with the franchises of the said last mentioned railway company, and thereupon the said board passed a resolution unanimously authorizing the purchase of the property and franchises of said Havana, Mason City, Lincoln and Eastern Railway Company.

And whereas the stockholders of the said Havana, Mason City, Lincoln and Eastern Railway Company, the same being the said consolidated company, did on the twenty-eighth day of June, in the year of our Lord one thousand eight hundred and seventy-two, in due and legal form, authorize the sale of all the property and franchises of the said Havana, Mason City, Lincoln and Eastern Railway Company to the said Indianapolis, Bloomington and Western Railway Company, and did authorize, direct and empower the board of directors of the said railway company to make, execute
145 and deliver to the said Indianapolis, Bloomington and Western Railway Company a good and sufficient deed of conveyance to all of the said property and franchises, to the said Indianapolis, Bloomington and Western Railway Company, in due form of law.

And whereas the board of directors of the said Havana, Mason City, Lincoln and Eastern Railway Company did, by resolution duly

passed, authorize the said sale of the property and franchises of the Havana, Mason City, Lincoln and Eastern Railway Company, and authorized and directed that a deed of conveyance be prepared and executed by the president and secretary of said railway company, in due form of law, conveying the said road, its property, franchises, appurtenances, appendages, rights, and credits, to the said Indianapolis, Bloomington and Western Railway Company, in consideration that the said Indianapolis, Bloomington and Western Railway Company would issue its stock to the holders of stock in the said
146 Havana, Mason City, Lincoln and Eastern Railway Company, hereinbefore described and set forth.

And whereas the board of directors of the said Indianapolis, Bloomington and Western Railway Company did in due form of law accept the said last mentioned deed of conveyance upon the conditions therein expressed, and the said Havana, Mason City, Lincoln and Eastern Railway, together with all its property, franchises, rights, credits, subscriptions, appurtenances, and appendages, thereby then and there became the property of and vested in the said Indianapolis, Bloomington and Western Railway Company to all intents and purposes forever.

And whereas, at a meeting of the board of directors of the said Indianapolis, Bloomington and Western Railway Company, held pursuant to law on the twenty-eighth day of June, in the year of our Lord one thousand eight hundred and seventy-two, it was recognized as expedient to complete the construction of and to equip the said line of railroad so purchased from the said Havana, Mason
147 City, Lincoln and Eastern Railway Company, from the city of Champaign, in the county of Champaign, to the town of White Heath, in the county of Piatt, and from said town of White Heath, by way of Clinton, in the county of De Witt; Lincoln, in the county of Logan; Mason City and Havana, in the county of Mason, to the Mississippi River, and from the said town of White Heath, by way of Monticello, in the county of Piatt, to the city of Decatur, in the county of Macon, all in the State of Illinois, the same being a distance of two hundred and fifteen miles.

And thereupon, and for the accomplishment of the purpose aforesaid, the said board of directors resolved and passed a preamble and resolution, as follows, to wit:

That whereas, in the opinion of this board, it is expedient for this company to complete the construction of and equip the line of road purchased from the Havana, Mason City, Lincoln and Eastern Railway Company, from Champaign, in the county of Champaign, to White Heath, in the county of Piatt, and from thence by way
148 of Clinton, in De Witt county, Lincoln, in Logan county, Havana and Mason City, in Mason county, to the Mississippi River, and from said White Heath, by way of Monticello, in the county of Piatt, to the city of Decatur, in the county of Macon, all in the State of Illinois, and for that purpose to issue the bonds of

this company to the aggregate amount of five million five hundred thousand dollars: It is therefore resolved by this board—

First. That a series of five thousand five hundred bonds of this company be prepared for issue and deliver, signed by the president and secretary and authenticated, when issued, by the certificate of trustees, each for the sum of one thousand dollars, to be numbered consecutively from one to five thousand five hundred inclusive, bearing date the first day of July, A. D. 1872, and payable to William Dennison or bearer, in the city of New York, on the first day of July, A. D. 1912, principal and interest payable in the gold coin of the United States of America of equal standard of value of the present gold coin of the United States of America, free of govern-
149 ment tax, with interest warrants thereto attached, signed by the secretary for the payment of interest thereon at the rate of seven per centum per annum in gold coin as aforesaid, on the successive first days of July and January of each year. The said principal and interest payable at the office or agency of the company in the city of New York.

Second. That a deed of conveyance be prepared and executed, to be signed by the president and secretary, conveying the said line of road so to be constructed and equipped, together with its appurtenances and appendages, its franchises, equipments, property, tools, incomes and interest, which now belong to or may hereafter appertain to said line of road, to trustees to secure the payment of said bonds and interest warrants, and in such form and with such provisions as the president of this company may by executing approve.

Third. That a sinking fund of thirty thousand dollars annually to provide for the payment of said bonds shall be formed by
150 setting apart on the first day of July, A. D. 1876, and each and every year thereafter on the first day of July, the sum of thirty thousand dollars.

This sinking fund shall be kept and invested by three commissioners, one of whom shall be the president of the company; the other two shall be members of this board, one of whom shall be changed annually.

The said commissioners shall invest the said fund in the bonds of this company; otherwise, at the discretion of said commissioners, in stocks of the United States or of the State of Illinois.

Fourth. That the commissioners shall frame rules for the safety and management of the said trust, and file the same with the treasurer, showing the condition, amount and investment of the said sinking fund.

And whereas the said Indianapolis, Bloomington and Western Railway Company, party of the first part, hath in accordance with said preamble and resolutions made and executed bonds
151 to the amount of five million five hundred thousand of dollars of the numbers, form, designation and character prescribed by said resolutions, and hold the same to be issued and used for the purpose and manner therein described, and which said bonds

are known and designated as a first mortgage seven per cent. Indianapolis, Bloomington and Western Railway Company extension bond:

Now, therefore, in further pursuance of said resolution, and to the end and purpose of securing the payment of the said five million five hundred thousand dollars of bonds and every part thereof—

This indenture witnesseth: That the said Indianapolis, Bloomington and Western Railway Company, party of the first part, in consideration of all and singular the premises, and for the further consideration of one dollar to it in hand paid by the said party of the second part, trustees as aforesaid, doth hereby grant, bargain and sell and convey to the said William Dennison and Robert Turner, trustees as aforesaid, and to their successors and assigns, all and singular the railway of the said party of the first part
152 known as the western extension of the said Indianapolis, Bloomington and Western Railway, and described as follows, to wit: Commencing at the city of Champaign, in the county of Champaign, State of Illinois; thence running to the town of White Heath, in the county of Piatt; thence by the way of Clinton, in the county of De Witt; Lincoln, in the county of Logan; Mason City and Havana, in the county of Mason, westwardly to the Mississippi River. And from the said town of White Heath, by way of Monticello in the county of Piatt to the city of Decatur, in the county of Macon, all in the State of Illinois, altogether being in length about two hundred and fifteen miles, together with all its franchises, equipments, property, lands, tenements, fixtures, buildings, machinery, goods and chattels of every kind and nature, used in or connected with the operation of said line of railway, including all rents, reservations and reversions of every nature and kind whatever, including all the property between said terminal points, which the said party of the first part now has, or owns or possesses, or may here
153 after acquire, own and possess.

To have and to hold the said railway herein described, and the said property, premises and rights hereby conveyed, or so intended to be conveyed, unto the said party of the second part, and their successors and assigns, for the sole use, benefit and behoof of the said trustees, this *cestuis que* trust, their successors and assigns forever, but upon the trusts, and to the uses following, that is to say:

First. That this conveyance is for, and shall be by the said party of the second part, their successors and assigns, held, used and owned solely for the benefit and protection and security of the persons and corporations who shall hold and own the bonds about to be issued as aforesaid by the party of the first part, and for enforcing the stipulations of said company as to said issue of bonds, and the disposal thereof, and securing the same, and the final payment thereof in their true intent and meaning, whether contained in said bonds or in the interest warrants attached to them, or in this deed.

154 *Second.* That for the better assuring and confirming the

title and powers of the said party of the second part, their successors and assigns, in the said premises and property hereby conveyed, and in and to any premises or property or rights hereafter accruing or to be acquired by the said party of the first part, appurtenant to said line of railway, which is intended to pass or to be passed by this conueyance, the said party of the first part, its successors and assigns, will and shall as often as may be lawfully required by the party of the second part, or their successors or assigns, holding the above granted trusts, do such acts and make such other and further conveyancing and assurances in law as such party of the second part shall, by counsel learned in the law, be advised are necessary for the better carrying out of the object of the parties to this mortgage or deed of trust.

Third. That if the said party of the first part, their successors or assigns, shall well and truly pay to the owners or holders of said five million five hundred thousand dollars of bonds, so
155 to be issued and hereby secured, the respective sums of money and interest due and accruing on said bonds, on the days and times therein mentioned, and according to the tenor and effect of said bonds, then and thenceforth this indenture and all the estate hereby granted shall become and be utterly void, and the same shall be by such payment wholly annulled and satisfied, without any further receipt or entry of satisfaction of record whatever, but shall be, if required, entered and certified on any record of the same as so satisfied, by the party of the second part, or their successors.

Fourth. That until default shall have been made by the party of the first part in the payment of principal or interest of the said bonds, or some of them, or until default shall have been made in respect to something herein required to be done by the said party of the first part, the said party of the first part shall be suffered and permitted to possess, use, occupy, manage, and operate the said line of railway, property, franchises, and appurtenances mentioned, and to renew, replace, and repair the same, and every part thereof,
156 and take and receive and use the tolls, rents, issues, incomes, and profits thereof, and dispose of the same in any manner not inconsistent with this instrument.

Fifth. In case default shall be made in the payment of any interest of the aforesaid bonds, to be issued according to the tenor of the coupons thereto annexed, or of the provisions hereof, or in case default shall be made in the payment of the principal of said bonds, or any of them, when the same shall become due, without the consent of the holder of such bond on which such default shall occur, the said party of the first part hereby covenants and agrees to and with the said party of the second part, and their successors and assigns, that within six months after such default shall have occurred, the same default still continuing, the said party of the first part, on demand of the said trustees for the time being, shall and will surrender to them or to their agent the actual possession of the herein granted

and devised railway and premises, together with all the books, records, papers, accounts, and money in the hands of the said party of
157 the first part appertaining to and belonging properly to the said company on account of the said line of railway herein devised, and all management and control thereof, and that all the expenses of taking, holding, managing, and operating said property, if possession be so taken, shall be paid from the income and profits thereof, and if said property shall, after such taking possession thereof, be sold, then from the sale thereof, or such expenses may be paid from the sale of any personal property appertaining to said demised premises as the said trustees may deem proper; and that said party of the second part, and their successors, having taken such possession, may manage, operate, and control said demised road and property and all its affairs and appoint all needful agents and employees for that purpose, and pay the same and receive all the incomes, issues, profits thereof, and apply the same to the payment of the said interest so in default according to the true intent and tenor of said bonds and the coupons annexed, and to the terms of this deed,
158 until such default shall have been satisfied, if such incomes and profits will satisfy the same, first paying all expenses of such possession and management, and all taxes, assessments, charges, and liens upon said property, and a just compensation for their own services as such trustees. But in any and all cases of such taking possession by the said party of the second part and paying up any such default and the expenses aforesaid, the said party of the second part shall immediately thereafter re-deliver the said railway and demised premises, books, records, and money and accounts into the possession of the said party of the first part; provided that no such demand for possession shall be made by said trustees until they shall have been required by the holders of at least the one-half of all the said issue of bonds which shall be then unpaid and outstanding, to make such demand and to take such possession of said road and property.

Sixth. That in case default shall be made as aforesaid, and continue as aforesaid, it shall be lawful for the party of the sec-
159 ond part or their successors in said trust, after entry as aforesaid, or other entry, or without entry, personally or by agent or attorney, to sell and dispose of to the highest bidder, for cash, all and singular the premises and property hereby conveyed, or intended so to be, as an entirety, at public auction in the city of Springfield, State of Illinois, at such time as said party of the second part may appoint, first having demanded of the said party of the first part full payment of all money then in default, and also first having given sixty days' notice of such time and place of sale, and a full description of the property so to be sold by advertisements thereof in three newspapers, one published in the State of Illinois, one in the city of New York, and one published in the city of Indianapolis, Indiana, and to adjourn said sale from time to time in their discretion, and if adjourned, to make such sale aforesaid without further notice at the time

and place to which it may be adjourned, and upon such sale, and receiving the purchase-money therefor to convey the same by good and
160 sufficient deed of conveyance to the purchaser or purchasers, and such sale and conveyance so made shall convey all the right, title, interest, estate and property of the said party of the first part, of, in and to the said road and premises, franchises and property to the said purchaser in fee-simple forever, and shall be a perpetual bar, both in law and equity, against the said party of the first part, and against their successors and assigns, and against all and every person claiming or to claim the said franchises or any part thereof, under them forever. After deducting from the proceeds of such sale the expenses of the sale and conveyance, and all advances or liabilities which may have been made or incurred by the party of the second part, in operating and controlling and maintaining the said railway and property, and in managing its business and affairs while in possession, and all payment of taxes, charges and assessments, as well as reasonable compensation for their services in that behalf, to apply the proceeds of such sale to the payment of
161 the interest of said five million five hundred thousand dollars of bonds, or so many of them as shall have been issued by the said party of the first part, and be then outstanding *pro rata*, until such interest shall be paid, and afterwards to apply the remainder to the payment of the principal of said bonds *pro rata*, until such principal shall be paid, and if any surplus remain after paying all of said matters, to pay such surplus to the party of the first part, and such payment shall be so made on said bonds, whether the same shall have become due or not, at the time of such sale, provided that said trustees may, in their discretion, sell the said premises and property hereby conveyed as an entirety, or any part thereof.

It is hereby declared that the receipts of said trustees making any such sale, to the purchaser of the premises for the purchase-money, shall be a full and sufficient discharge of such purchaser there-
162 for, and that said purchaser shall not after payment of said purchase-money, and obtaining such receipt therefor, be liable, or in any way bound to see said purchase-money applied to this trust, or otherwise, or in any manner answerable for its loss or misapplication, or obliged to inquire into the authority for making such sale.

Seventh. If default be made by the party of the first part in the payment of any half-year's interest on any of said bonds, and the warrant or coupon for such interest shall have been presented and its payment demanded, and such default shall have continued for six months after such demand, without the consent of the holder of such coupon or bond, then and thereupon the principal of all of the said bonds hereby secured shall be and become immediately due and payable, anything in such bonds to the contrary notwithstanding; and the said party of the second part may so declare the same, and notify the party of the first part thereof, and upon the written request

of the holders of a majority of the said bonds then outstand-
163 ing, shall proceed to collect both the principal and interest of all such bonds outstanding, by foreclosure and sale of said property or otherwise, as herein provided.

Eighth. At any sale of the property aforesaid, or any part thereof, made by virtue of these presents, or by judicial authority, the said trustees or either of them may bid for and purchase, or cause to be purchased, the property so sold, or any part of it, in behalf of the holders of said bonds secured by this deed, then outstanding, at a reasonable price, if only a part be sold; but if the whole property be sold, then at a price not exceeding the whole amount of said bonds and interest then due and outstanding.

Ninth. It is hereby mutually agreed by the parties hereto, that the trustees shall be responsible only for gross negligence and willful default, and that they shall not be bound to any act touching the execution of the trust, except at their own option, which may involve them in personal expense or liability, unless first duly indem-
164 nified against the same by one or more of said bondholders.

In case of the resignation or inability to act of the trustees aforesaid, the board of directors may appoint a successor or successors, and failing to so appoint, any court of competent jurisdiction, in the State of Illinois, may appoint a trustee or trustees to fill such vacancy on the application of the holders of the one-sixth part of the bonds, hereby intended to be secured, then outstanding, and such appointment by the board, or by such court, shall invest the trustee or trustees so appointed with all the interest, estate, power, and authority in the premises, and subject him or them to the same obligations hereby given and granted to the said party of the second part.

And the said party of the first part hereby further covenants and agrees with the party of the second part and their successors, and with the holders of each and all of the said issue of five million five hundred thousand dollars of bonds which may be issued, that the said party of the first part will create and make a sinking
165 fund for the redemption of said bonds, and each of them, by setting aside and depositing with three commissioners to be appointed by the said party of the first part for that purpose, from and after the first day of July, A. D. 1876, and annually thereafter until the maturity of said bonds, the sum of thirty thousand dollars.

Such sinking fund moneys shall be invested in the purchase of the bonds so issued, or in the bonds of the Government of the United States, or of the State of Illinois, and the money accruing on any and all of such investments for interest, as fast as the same shall be received, shall be added and paid into said sinking fund and compounded therein continually, and reinvested in like manner with the other money of said fund. That the board of directors of said party of the first part shall have entire control of the management of said sinking fund, and of every person in charge of or connected
166 with the same, and shall from time to time direct in what bonds or securities it shall be invested, and at what price

rates, and how it shall be kept, and the manner of keeping the accounts thereof, and shall require ample security to be given them by any person in charge of its moneys, or its securities or bonds, for safe-keeping.

Every bond of the issue of five million five hundred thousand of dollars, which may be purchased and held by said sinking fund, shall remain in full force until the whole of such issue shall have matured, or shall have been redeemed by said party of the first part, and the interest on such bonds held by said sinking fund shall be paid by said party of the first part regularly, as the interest on its other similar bonds is paid.

It is understood and agreed by and between the parties hereto, that no individual liability shall attach to any stockholder of the party of the first part, in behalf of the holders of any of the bonds
167 secured by this mortgage or deed of trust, and that the holders of said bonds rely solely on the property, rights and franchises of the party of the first part, covered by this mortgage or deed of trust, and the stipulations and covenants of the said party of the first part herein contained, for the payment of the principal and interest of the bonds so held by them.

In witness whereof, the said Indianapolis, Bloomington and Western Railway Company, the party of the first part, has caused these presents to be executed and signed by the president of said company, and attested by the secretary in its behalf and for the said company, and has caused the corporate seal of said company to be affixed; and the said William Dennison and Robert Turner have signed and sealed the same to evidence their acceptance of the trust hereby created, the day and year first above written.

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY,

{ COMPANY SEAL. } By BENJ. E. SMITH, *President.*

Attest: ALBERT P. LEWIS, *Secretary.*

WILLIAM DENNISON, *Trustee.* [SEAL.]

168 ROBERT TURNER, *Trustee.* [SEAL.]

Executed in presence of

J. C. SHORT,
C. W. SMITH.

(The bonds herein mentioned will be duly stamped when issued, with proper and sufficient U. S. revenue stamps.)

STATE OF ILLINOIS, Champaign County, } *ss.*

Be it remembered that on the 28th day of June, A. D. 1872, at the county aforesaid, before me, the undersigned, clerk of the Circuit Court in and for said county, personally appeared Benjamin E. Smith, to me known to be the president of the Indianapolis, Bloomington and Western Railway Company, and who is personally known

to me to be the real person whose name is subscribed to the foregoing instrument as having executed the same as such president; and the said Benjamin E. Smith being by me duly sworn, did depose and say that he is and was the president of the Indian-
169 apolis, Bloomington and Western Railway Company; that the seal affixed to the foregoing instrument was and is the corporate seal of the said Indianapolis, Bloomington and Western Railway Company, and was so affixed by authority and order of the board of directors of said company, and that he signed his name thereto by like authority and order as president of said company; and the said Benjamin E. Smith acknowledges to me that he had executed the said instrument, and signed, sealed, and delivered the same as the free and voluntary act of the Indianapolis, Bloomington and Western Railway Company, for the uses and purposes therein expressed.

And at the same time and place personally appeared before me, the undersigned, Albert P. Lewis, who is personally known to me to be the secretary of the Indianapolis, Bloomington and Western Railway Company, and being by me duly sworn, did depose that he is and was the secretary of the Indianapolis, Bloomington and Western Railway Company, and that he signed and executed the
170 foregoing instrument and affixed the seal of the said company thereto, and that the seal thereto affixed is the corporate seal of the Indianapolis, Bloomington and Western Railway Company.

And at the same time and place personally appeared before me, the undersigned, William Dennison and Robert Turner, to me well known to be the real persons who signed and executed the foregoing instrument upon their part, and they, the said William Dennison and Robert Turner, both acknowledged that they had executed the foregoing instrument, and had accepted the trust therein created as their free and voluntary act, for the uses and purposes therein expressed.

{ CIRCUIT COURT SEAL, CHAMPAIGN COUNTY, ILL. } E. T. WHITCOMB, *Clerk Circuit Court.*

UNITED STATES OF AMERICA, STATE OF ILLINOIS, } *ss.*
Office of Secretary of State, }

I, Edward Rummel, secretary of State of Illinois, hereby certify that Edwin T. Whitcomb, Esq., who signed the foregoing certificate, is now, and was at the time of signing the same, clerk of the
171 Circuit Court of Champaign county and State of Illinois, duly commissioned and qualified to office, with full power by the laws of this State to issue certificates as aforesaid; that said certificate is in due form of law and by the proper officer, and that full faith and credit are due to his official attestations.

In witness whereof, I hereunto set my hand and affix the great seal of State at the city of Springfield, this first day of July, in the

year of our Lord one thousand eight hundred and seventy-two, and of the Independence of the United States the ninety-sixth.

EDWARD RUMMEL,

[GREAT SEAL OF STATE.] *Secretary of State.*

Received for record at o'clock minutes day of 1872, and recorded day of 1872, in mortgage book pages . Recorder of county.

172 *Exhibit "G."*

Chattel Mortgage to Joseph T. Thomas, Trustee.

This indenture, made this sixteenth day of November, A. D. one thousand eight hundred and seventy-four, between the Indianapolis, Bloomington and Western Railway Company, a corporation organized and existing under the laws of the State of Indiana and Illinois, and having its principal office in the State of Illinois, at the city of Urbana, in Champaign county, and having its principal place of business in the State of Indiana, in the city of Indianapolis, in the county of Marion, party of the first part, and Joseph T. Thomas, of Philadelphia, Pennsylvania, trustee, as hereinafter mentioned as party of the second part:

Witnesseth, that whereas the said party of the first part has in operation a line of railway extending from Indianapolis, Indiana, into and through the counties of Marion, Hendricks, Boone, Montgomery, Fountain and Warren, in the State last aforesaid, to the western boundary line of Indiana, and from thence westwardly through the counties of Vermillion, Champaign, Piatt, DeWitt, McLean and Tazwell, and also extending from Champaign, in
173 said county of Champaign, to Decatur, in Macon county, and also to Havana, in Mason county, Illinois.

And whereas, in the construction and purchase of material, supplies and equipment for the use and operation of the said line of railway, the said corporation, party of the first part, has incurred large liabilities in the shape of promissory notes, acceptances and adjusted accounts, which said obligations, so incurred for the common benefit of said property, it is desired by the said party of the first part, shall be secured so far as practicable upon the property of the corporation embraced in this conveyance without any preference for any one of such creditors over any other, but putting all such liabilities upon a common footing so far as the security of this indenture is concerned, upon the particular property and income and tolls which are hereinafter specified and intended to be included in this indenture, and as such common security to be available to the party
174 of the second part for the use, benefit and behoof of the creditors of the said Indianapolis, Bloomington and Western Railway Company, holding such notes, obligations and acceptances for value, but upon the conditions and trust in this indenture contained:

Now, therefore, this indenture witnesseth: That in consideration of the premises, and of one dollar to the said party of the first part in hand paid, at and before the ensealing and delivery of these presents, the receipt of which is hereby acknowledged, and in order to execute the purpose and intent aforesaid, and to secure the payment to the several persons and corporations who may now be, or at any time hereafter become, the owners or holders of the said several notes, acceptances or obligations, which are more particularly set forth and included in a schedule marked "A," which is hereunto attached and intended to be and is hereby declared to be a part of this indenture as fully in all respects as though the same were fully incorporated herein in accordance with the condition and
175 trust hereinafter set forth, the said party of the first part hath bargained, sold, assigned, transferred, conveyed and set over, and by these presents doth bargain, sell, assign, transfer, convey and set over unto the said party of the second part, as such trustee as aforesaid, and to his lawful successors in said trust, all and singular the engines, cars, machinery, tools, wood, coal, furniture, safes, iron rails not in tracks, ties, timber, iron, steel, spikes, wheels, oil, waste, stationery, office station and railway supplies, and all other personal property of any kind or description, now owned by the said party of the first part, or in or to which it has any right, title or equity, it being the intent of this indenture to embrace all personal property or fixtures of all and every kind, character, or description, in any manner now belonging to the said party of the first part, together with the tolls, receipts and income to be derived from the use of said property or any part thereof. To have and to hold all and
176 singular the said property, goods, chattels, and tolls and income aforesaid, unto the said party of the second part, as trustee, for the benefit and security of the said creditors, intended to be provided for by these presents in accordance with the conditions and trusts hereinafter set forth, that is to say:

Upon the condition, that if the said party of the first part shall well and truly pay, or cause to be paid, all and singular the said notes, bills, acceptances and obligations included in the said schedule "A," and all renewals of the same, together with the agreed interest upon said several demands, then and in that case the rights, interest, title and lien hereby granted in said goods, chattels, and the income therefrom shall cease and determine. And this conveyance is upon the further trust, that until the said party of the first part shall make default in the payment of some of said notes, bills, obligations
177 or renewals of the same, intended to be hereby secured, or until the exercise of the discretion of the said party of the second as hereinafter set forth, it shall be lawful for the said party of the first part to remain in and retain full possession of all and singular the said goods, chattels, property and tolls hereby mortgaged; provided always, that such possession shall not continue more than two years from this date, unless the indebtedness hereby secured shall before that time be fully paid off, discharged or satisfied; and

provided further, that in case the said party of the first part shall at any time sell or dispose of any of the property hereby mortgaged, or to apply the same to any use or purpose than for the construction, or maintenance, or use and operation of the said railroad, or in case the said party of the first part shall at any time be subject to judgment, execution, attachment, sequestration or other lien or legal process, under or by virtue of which the said property and tolls hereby
178 conveyed shall be seized or exposed to seizure, lien or sale, then, and in that event, it shall be lawful for the party of the second part, or his successor for the time being, at his or their discretion, to enter upon and take actual possession of all and singular the goods, chattels and property hereby mortgaged, and thereafter maintain complete and exclusive possession and control of each and every part of such mortgaged property, anything hereinbefore to the contrary notwithstanding, and to sell such property in such manner and upon such notice as may be proper in the discretion of such trustee, and apply the proceeds thereof *pro rata* to the payment and satisfaction of the several notes, bills and obligations then unpaid and outstanding, which are at large set forth in said schedule "A," and intended to be secured by this indenture, and all rewards and substitutions of the same, and such *pro rata* payment is to be made
179 on such claims irrespectively of whether the same or any thereof are then duly or are unmatured, it being the true intent and meaning of this indenture to place all of such creditors hereby secured on an exact priority as to this security, wholly disregarding when the said debts when severally created or will mature.

And it is further expressly agreed, that if the proceeds of such sale are more than sufficient to pay and discharge all and singular the said notes, bills, obligations or the renewals thereof then outstanding and unpaid, then the party of the party of the second part shall pay over any surplus of such proceeds unto the party of the first part or its successors or assigns.

And it is further expressly agreed, and these presents are upon the express condition that if the said party of the first part shall at any time prior to any such sale so to be made by the party of the second part, whether before or after entry, make payment of all the
180 then outstanding notes, bills, obligations, and intended to be hereby secured, any renewal of the same, then and thenceforth this indenture, and all the estate hereby granted, shall become and be utterly void and of no further effect, and the same shall be by such payment wholly annulled and satisfied without any further receipt or entry of satisfaction of record whatever, but shall be, if required, entered and certified on any record of the same, as so satisfied by the party of the second part or his successor in said trust. And it is further agreed by the parties hereto, that the party of the second part, and any lawful successor in said trust, being trustee for the time being, shall be responsible only for gross negligence and willful default in the discharge of any duties devolved upon him or

them by this indenture, and that in the event of any such possession or sale being made by the party of the second part, or in the
181 event that the said party of the second part shall be compelled or it is deemed by him advisable at his discretion to take any legal steps for the protection of the lien and estate hereby vested in him, that he shall be entitled to demand, charge, and receive reasonable and just compensation for his services so rendered, and all just and necessary expenses incurred by him in such duty, including compensation to all agents, servants and attorneys by such trustee employed for the protection of the estate hereby vested in him, all which such sums shall be first paid out of any proceeds of any sale of the property hereby conveyed.

In case of the resignation or inability to act of the party of the second part, the board of directors of the party of the first part may appoint a successor, and failing so to appoint, any court of competent jurisdiction in either of the States of Indiana or Illinois
182 may, on the nomination of creditors holding one-fifth in amount of the total debt intended to be hereby secured, appoint a trustee or trustees to fill such vacancy, and any such appointment by the board of directors, or by such court, shall invest the trustee or trustees so appointed with all the interest, estate, power, and authority in the premises, and subject him or them to all and singular the same obligations hereby granted and given to or imposed upon the said party of the second part.

In witness whereof, the said Indianapolis, Bloomington and Western Railway Company has caused these presents to be executed and signed by its president and attested by its secretary in behalf of said company, and have also caused its common or corporate seal to be affixed to this indenture in duplicate.

[CORPORATE SEAL.] INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY CO.

By B. E. SMITH, *President.*

Attest. A. P. LEWIS, *Secretary.*

Witness—C. W. SMITH.

STATE OF ILLINOIS, Champaign County, } *ss.*

183 Be it remembered that on this sixteenth day of November, in the year of our Lord one thousand eight hundred and seventy-four, in the State and county aforesaid, before me, the undersigned, a justice of the peace in and for said county, personally appeared Benjamin E. Smith, to me personally known, and known by me to be the president of the Indianapolis, Bloomington and Western Railway Company, and who is personally known to me to be the identical person whose genuine signature is subscribed to the foregoing instrument, as having executed the same as such president; and the said Benjamin E. Smith being by me duly sworn, did depose and say that he

lives at Columbus, Ohio, and that he is the president of the said Indianapolis, Bloomington and Western Railway Company; that the seal affixed to the foregoing indenture was and is the corporate seal of said Indianapolis, Bloomington and Western Railway
184 Company, and that the foregoing instrument was executed, sealed and delivered under the order and authority of the said corporation, and that he, said Benjamin E. Smith, as such president, did acknowledge that he had executed the said instrument, and signed, sealed, and delivered the same as the free and voluntary act and deed of the said Indianapolis, Bloomington and Western Railway Company, for the uses and purposes therein expressed.

In testimony whereof, I have hereunto set my hand and seal as such justice, at the city of Urbana, in the county of Champaign and State of Illinois, this 16th day of November, in the year one thousand eight hundred and seventy-four (1874).

[SEAL.] JOHN P. TENBROOK,
Justice of the Peace.

185 *Schedule "A."*

(Attached to Chattel Mortgage.)

June, 1871	Busey Bro	$4,000 00	
Oct., 1873	Rogers Loco	12,427 00	4 Notes.
Nov., 1873	" "	29,514 11	9 "
" "	Wyatt & Latham	1,864 65	
Dec. "	Rogers Loco	31,718 34	10 Notes.
Jan., 1874	" "	26,075 14	8 "
" "	U. S. Exp	100,000 00	200 Bonds, B. E. S.
Feb. "	Rogers Loco	33,572 71	
March "	" "	32,249 91	
April "	" "	26,510 44	
May "	" "	34,131 60	
" "	A. Gross	8,000 00	15 Bonds, B. E. S.
June "	Rogers Loco	32,781 47	
July "	" "	26,945 76	
" "	James Rayburn	2,750 00	
" "	S. W. Car Co	5,000 00	B. E. S. & C. R. G.
" "	West. Car Co	191,614 43	
Aug. "	Rogers Loco	34,690 50	
" "	Mercht. Bank	4,000 00	10 P. E. S. Bonds, B. E.
" "	J. J. Lapley	1,000 00	S. & C. R. G.
" "	Turner Bro	25,000 00	B. E. S. & C. R. G.
" "	S. W. Car Co	5,000 00	B. E. S. & C. R. G.
" "	W. H. Smith	7,500 00	28 Bonds.
" "	H. McCrea	909 72	
Sept. "	Indpls. Roll'g Mill	5,243 90	
" "	" " "	4,575 30	
" "	Morgan Oil Co	2,196 31	
" "	Dickason & Co	2,576 74	
" "	P. P. Car Co	6,571 38	186
Sept. "	Rogers Loco	33,313 03	
Oct. "	" "	27,381 06	
" "	R. Ingersoll	1,000 00	
" "	De Candres	739 80	
" "	J. V. Taylor	1,184 12	
" "	Vose, Dinsmore & Co.	5,134 35	B. E. S.
" "	W. H. Smith	15,000 00	27 Bonds, C. S. & N. W.

Oct., 1874	St. Nicholas Bank	6,000 00	6, I. B. & W., B. E. S. &	
" "	Butterfield & W	1,731 00	C. R. G.	
" "	Snedeker	3,000 00		
" "	Globe Bank	15,000 00	25 Bonds, B. E. S. & C.	
" "	P. P. Car Co	2,207 57	R. G.	
" "	Geo. Southers	4,000 00		
" "	C. S. Stroker	2,784 05		
" "	Rogers Loco	10,000 00	B. E. S. & C. R. G.	
" "	Elliott, Sons & Co	6,000 00	J. & S. Co. & J. H. J.,	
" "	Brown & Blain	6,000 00	B. E. S. & C. R. G.	
" "	Ind. Roll'g Mill	4,932 52		
" "	E. H. Rood	1,475 70		
" "	St. Nicholas Bank	5,000 00	10 Bonds, B. E. S. & C.	
" "	Mayo & B	4,405 10	R. G.	
" "	" "	5,000 00		
" "	Indps. Roll'g Mill	1,500 00		
" "	H. Reynolds	4,000 00		
" "	A. Gunnison & Co	1,649 51		
" "	J. C. Lake	500 00		
" "	George Wooden	500 00	187	
Nov. "	Rogers Loco	20,324 03		
" "	D. H. Oliver	906 77		
" "	" " Gdn	1,813 54		
" "	N. McCarty	2,267 08		
Nov., 1874	L. & H. Houck	1,000 00		
" "	R. A. Williams	1,000 00		
" "	S. Powers	691 89		
" "	Smith & Co	1,100 00		
" "	C. P. R. Co	1,000 00		
" "	Allen Scobb	1,005 00		
" "	St. Nich. Bank	4,000 00	4 Sp. & N. W. Bonds, 4	
" "	P. P. Car Co	2,207 57	I. B. & W., B. E. S. & C. R. G.	
" "	B. F. Harris	13,000 00	B. E. S. & C. R. G.	
" "	C. S. Stocker	3,000 00		
" "	Rogers Loco	10,000 00	B. E. S. & C. R. G.	
" "	U. Rolling Mill	10,000 00		
" "	Webster, D. & Co	1,568 95		
" "	M. Lassig	633 57		
" "	Un. Roll'g Mill	11,000 00		
" "	C. T. Raynolds & Co.	1,780 35		
" "	Brown & Blain	6,000 00		
" "	Howard Bros	2,000 00		
" "	Citizens' Nat'l	5,000 00	Bonds, B. E. S. & C. R. G.	
" "	Un. Roll'g Mill	13,500 00		
" "	Rogers Loco	10,000 00	B. E. S. & C. R. G.	
" "	Jackson & Sharps Co.	5,000 00	B. E. S. & C. R. G., I. S. to pay.	
" "	St. Nich. Bank	25,000 00	50 Bonds, B. E. S. & C.	
" "	Rogers Loco	16,000 00	R. G.	
" "	Indp. Roll'g Mill	1,500 00		
" "	A. Guinnison & Co	1,649 51		
" "	Crerce, Adams & Co.	3,000 00		
" "	Rogers Loco	16,000 00		
" "	George Worden	2,000 00		
" "	Indp. Roll'g Mill	2,000 00		
" "	S. W. Car Co	1,551 48		
Nov., 1874	C. R. Gregg	600 00	188	
" "	Ind. Roll'g Mill	2,000 00		
" "	" " "	2,000 00		
" "	Ind. Brass & S. Co	750 00		
" "	" " "	750 00		
" "	Un. Roll. Mill	1,875 00		
" "	" " "	1,875 00		

Nov., 1874	N. W. Phelps	1,459 31		
" "	" "	1,208 87		
" "	N. W. Phelps	1,210 03		
" "	Butterfield & W	1,000 00		
" "	" "	500 00		
" "	Moss B. Coal	4,000 00		
" "	Far. Bk. Cor	1,000 00		
Dec. "	Rogers Loco	13.267 00		
" "	Smith & Co	1,000 00		
" "	S. W. Car Co	2,500 00		
" "	C. S. Stocker	3,000 00		
" "	Webster, D. & Co	1,783 34		
" "	Barnum & R. Mf. Co.	2,502 96		
" "	Hinckley Loco. Wks	7,000 00		
" "	" " "	7,000 00		
" "	Globe Bank	5,000 00	Bonds, B. E. S. & C. R. G.	
" "	S. W. Cochrane	422 40		
" "	A. Gunnison & Co	1,649 51		
" "	W. J. Mordon & Co	3,431 79		
" "	Layman, Cary & Co	1,725 93		
" "	Hinckley Loco	7,000 00		
" "	" "	7,000 00		
" "	Long Island Rus	10,000 00	20 Bonds.	
" "	Morgan Oil Co			
Dec. 1874	Geo. Locilten	4,000 00		
" "	Indp. Roll. Mill	3,000 00		
" "	Wynhams & D	4,000 00		
" "	Ind. Roll. Mill	4,000 00		189
" "	S. W. Car Co	1,551 48		
" "	Jackson & Sharps Co.	5,000 00		
" "	Rogers Loco	16,000 00		
" "	C. R. Griggs	6,000 00		
" "	St. Nich. Bank	5,000 00	B. E. S. & C. R. G. 10 bonds.	
" "	Savings B'k, Peoria	5,000 00	" 15 Bonds.	
" "	2nd National	10,000 00	B. E. S. & C. R. G.	
" "	Un. Roll Mill	1,875 00		
" "	" "	1,875 00		
" "	" "	9,218 31		
" "	St. Nich. Bank	25,000 00	50 Bonds, B. E. S.	
" "	S. W. Car Co.	3,000 00	B. E. S. & C. R. G.	
" "	Moss Bank Coal Co.	4,568 29		
" "	" " "	2,500 00		
" "	Far. Cor. Bank	1,000 00	B. E. S. & C. R. G.	
" "	2d National, Peoria	10,000 00	15 Bonds B. E. S. & C.	
" "	C. F. Lucas	2,075 00	R. G.	
Jan'y 18, '75	Geo. Worden	2,000 00		
" "	C. R. Griggs	600 00		
" "	1st Nat., Springfield	7,800 00		
" "	W. J. Mordaunt & Co.	452 70	14 Bonds B. E. S. & C	
" "	Indp. Roll. Mill	5,000 00	R. G.	
" "	Un. Roll. Mill Co	10,000 00		
" "	R. E. S	2,500 00		
" "	Globe Bank	15,000 00		
" "	Rogers Loco	16,000 00	J. H. Jackson, Acc't Turner Bros.	
" "	Citizens' Bank	10,000 00	25 Bonds B. E. S. & C	
Jan., 1875	Geo. Worden	500 00	R. G.	
" "	" "	722 80		
" "	Moss B. Coal	4,524 39		
" "	G. Foster, Att'y	200 00		190
" "	Far. Bank Cor	1,500 00	B. E. S. & C. R. G.	
" "	C. F. Lucas	2,075 00		

Feb., 1875	S. W. Car Co	2,500 00	
" "	C. R. Griggs	793 07	
" "	M. B. C. Co	4,652 28	
" "	Geo. Foster, Att'y	200 00	
" "	Un. Roll. Mill	12,000 00	B. E. S. & C. R. G.,
March, 1875	C. R. G. & B. E. S	2,500 00	Turner accept.
" "	" " " " "	5,000 00	Irving National.
" "	" " " " "	10,000 00	Hanover Nat. Bank.
" "	" " " " "	2,384 96	108 Bonds Import. and Traders' National.
" "	B. E. S	2,500 00	Kurtz & Co. 5 Bonds Jackson.
April, 1875	B. E. S. & C. R. G	5,000 00	Gallatin National.
" "	" " "	2,382 85	4 Bonds Southwark Bank, Pa.
" "	" " "	2,382 85	4 Bonds North Am. Co.
" "	Geo. Foster, Att'y	200 00	
May, 1875	Center Pl. R. Co	1,000 00	
" "	B. E. S	6,250 00	10 Bonds Bank of Republic.
June, 1875	B. E. S. & C. R. G	2,500 00	Irving National.
" "	" " "	500 00	Hanover National.
" "	" " "	10,000 00	Importers' and Traders'
" "	" " "	2,408 75	National. 5 Bonds Kurtz & Co.
" "	R. E. S	7,500 00	Gallatin National.
" "	" " "	5,000 00	Importer and Traders'
" "	" " "	1,200 00	National.
" "	" " "	2,500 00	5 Bonds J. H. Jackson.
" "	" " "	1,125 00	1st. Nat. Sp.
June, 1875	Geo. Foster, att'y	200 00	
July, "	B. E. S. & C. R. G	5,000 00	Gal't Nat.
" "	" " "	2,408 79	4 Bonds Southwark Nat.
" "	" " "	2,408 79	4 Bonds N. American.
Aug. "	B. E. S	6,250 00	10 Bonds B'k of Republic.
Sept. "	"	7,500 00	Gal'tn Nat.
" "	"	5,000 00	Imp. & Tra. 191
" "	"	1,250 00	" "
" "	"	2,500 00	2 Bonds Jackson.
" "	"	1,125 00	2 B'ds 1st Nat. Springfield
" "	B. E. S. & C. R. G	2,500 00	Irving National.
" "	" " "	10,000 00	Imp. & Tra.
" "	" " "	2,448 00	5 Bonds Kurtz & Co.
Oct. "	" " "	5,000 00	Gallatin Nat.
" "	" " "	2,488 49	4 Bonds Southwark Nat.
" "	" " "	2,448 49	4 Bonds Bank N. America
" "	B. E. S	6,250 00	12 Bonds B'k of Republic
" "	D. H. Oliver	769 30	
" "	Dr. Gdn	1,938 62	
" "	N. McCarty	2,423 42	
" "	L. & H. Houch	1,000 00	
" "	G. Wooden	1,500 00	
Dec. "	C. R. G. & B. E. S	2,500 00	Irving Nat.
" "	" " "	10,000 00	Imp. & Tra. Nat.
" "	" " "	2,488 00	5 Bonds Kurtz & Co.
" "	B. E. S	7,500 00	Gallatin Nat.
" "	"	5,000 00	Imp. & Tra.
" "	"	1,250 00	"
" "	"	1,125 00	2 Bonds 1st Nat. Sp.
Jan., 1876	B. E. S. & C. R. G	5,000 00	Gallatin Nat.
" "	" " "	2,488 19	4 Bonds Southwark Nat.
Jan., 1876	B. E. S. & C. R. G	2,488 00	4 Bonds Bank of N. A.
Feb. "	B. E. S	6,250 00	Bank of Republic.

Mch., 1876	B. E. S.	7,500 00	Gallatin Nat.	
" "	"	5,000 00	Imp. & Traders.	
" "	"	1,250 00	" "	
" "	"	1,125 00	2 Bonds 1st Nat. Sp.	
June, "	J. A. Harpham	2,250 00		
Nov., "	D. H. Oliver	1,031 84		192
" "	" Gdn	2,063 69		
" "	N. McCarty	2,579 78		
Sept., 1873	B. F. Harris	2,000 00	B. E. S. & C. R. G.	
" "	Thompson, Gregg & Co	2,700 00		
" "	Account of Smith, Griggs & Co. adjusted by order of board at about	550,000 00		
1874.				
June 30	1st Nat B'k of Troy	10,000 00		
" 26	J. T. Agnew	10,000 00		
" 30	H. W. Welch	50,000 00		
" 30	Drexel & Co	50,000 00		
Sept. 9	H. C. Bennett	10,000 00		
" 9	Ct. Nat. B'k at Bridgeport	10,000 00		
July 26	Continental Bank	10,000 00		
" "	4th National Bank	10,000 00		
1873.				
Sept. 1	Turner Brothers	430,899 58		
Oct. 1	" "	46,908 32		
Nov. 6	" "	55,431 76		
Dec. 31	" "	19,834 06		
1874.				
Jan. 2	Turner Brothers	62,082 69		
" 2	" "			
	open acc't	20,076 60		

193 Filed for record November 16th, 1874, at 10½ o'clock A. M.

STATE OF ILLINOIS, }
Champaign County, } *ss.*

I, J. W. Porter, clerk of Circuit Court and *ex officio* recorder in and for the said county in the State aforesaid, do hereby certify that the within and foregoing is a true, full, correct and complete copy of instrument executed by Indianapolis, Bloomington and Western Railway, by its president, &c., to Joseph T. Thomas, trustee, found in book 24 of Mtgs., on pages 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, as appears of record in my said office; said copy aforesaid embracing pages numbering from 1 to 19.

In testimony whereof, I have hereunto set my hand and official seal of office, at Urbana, this fourth (4) day of October, A. D. 1878.

J. W. PORTER, *Recorder of Deeds, &c.*

194 Here follows the order of court appointing George B. Wright receiver, made and entered on the 18th day of November, A. D. 1874, in said Circuit Court of Montgomery county.

195 Now, on this 18th day of November, A. D. 1874, came the parties to this suit, the complainants by Henry Crawford, their attorney, who presented his complaint to the said court, praying,

among other things, that a receiver be appointed to take charge of the property and effects, personal and real, or mixed, of the said defendant, the Indianapolis, Bloomington and Western Railway Company, and the company appearing by McDonald & Butler, its attorneys, and said complaint being submitted to said court for hearing, and the court having examined the said complaint, and having examined the evidence of the parties, and heard their allegations, finds that the material allegations of said complainant's complaint are true and sufficient, and that the prayer thereof as to appointment of receiver should be granted.

It is therefore ordered, adjudged, and decreed by the court, that the prayer of said complaint be granted, and that on the motion of the plaintiffs, George B. Wright be and he is hereby ap-
196 pointed receiver in this case, and in event of his accepting said appointment, it is ordered that he qualify by taking and subscribing an oath for the faithful performance of his duty as such receiver, and execute the usual undertaking with sufficient security to be approved by the court conditioned for the faithful performance of his duty as such receiver. Upon such acceptance and qualification, said receiver shall forthwith take possession, and to the end demand, and if necessary sue for and recover, all the property of said defendant, the Indianapolis, Bloomington and Western Railway Company, whether real, personal, or mixed, and whether in possession or in action, the said property hereby contemplated, comprising the railroad of said last named defendant, extending from Indianapolis, Indiana, into and through the counties of Marion, Hendricks, Boone, Montgomery, Fountain, and Warren, in the State last aforesaid, to the western boundary line of Indiana, and from thence westward through the counties of Vermillion, Champaign, Piatt, DeWitt, McLean, and Tazewell, in the State of Illinois, and extending also
197 from Champaign, in said county of Champaign, to Decatur in Macon county, and also to Havana in Mason county, in said State of Illinois, together with all the franchises, rights of way, roadbed, track, switches, depots, depot grounds, water stations or tanks, locomotives, cars, machinery, fixtures, and property of whatever kind or nature. That said receiver is hereby empowered and directed to carry on the business of a railroad common carrier of the said defendant, the Indianapolis, Bloomington and Western Railway Company, under and subject to the supervision of this court; and to use and employ the property aforesaid to that end, and in so doing he shall be invested with all the rights and franchises vested by law in said railroad company. In the execution of said trust the said receiver shall have authority to employ all necessary and proper agents, attorneys, officers and laborers, and to fix and alter the compensation of said agents, attorneys, officers and laborers. He shall have authority, subject to the super-
198 vision of this court, to make such repairs and additions to said railroad and property as may be essential to the safety of

the same, and proper in his judgment for carrying on its said business. Also to make all contracts within the scope of the charter powers vested in said defendant, the Indianapolis, Bloomington and Western Railway Company, that may be necessary in carrying on the business of said railroad, subject to like supervision of the court. Also to regulate and fix the rates of fare and freights subject to the like supervision of the court. Also to collect any and all debts or claims owing, or that may become due and owing to the said defendant, the Indianapolis, Bloomington and Western Railway Company, from any source, and of the money that may come into his hands as such receiver for the operation of said road, he shall pay first all current expenses incident to the administration of this trust, and by the operating of said railroad, including all sums due connecting or intersecting lines of railroad arising from the interchange
199 of business heretofore done with any and all such connecting and intersecting lines. And all amounts now legally due from defendant railway company for taxes, county, State, or special; next all amounts due to operatives and employees and all agents of said railroad for any services rendered the said road since the 1st day of July, 1874. Next all amounts due for supplies purchased and used in operating said road and furnished since the said first day of July last, and all money not needed for the purposes aforesaid shall, as fast as received, be applied to the other indebtedness of said railway company, but subject to the supervision and further order of the court. And such receiver shall also have full power and authority in his own name, or using the said corporate name, to bring all suits, actions, and legal proceedings necessary and proper in his judgement to the proper execution of his trust and the best interest of said property. And such receiver is further directed and authorized in case it is proper in his judgement to use any of the
200 balance of funds remaining his hands after such prior payments are made for the purpose of protecting such of the personal property of the corporation under lien or pledge from sacrifice by the payment of interest or renewals of such pledges or liens. For his service he shall receive such compensation as shall be hereafter fixed by this court. It is further ordered that upon demand the said defendant, the Indianapolis, Bloomington and Western Railway Company, forthwith deliver over to said receiver all the aforesaid property. And that neither said railway company nor any officer, agent, or employee of said railway company molest or interfere with the possession or use of any of the said property in the possession of such receiver under this order. Said receiver shall retain such possession and continue to discharge the trusts and duties aforesaid until the further order of this court in the premises, and he shall as soon practicable after entering upon the discharge of the duties of his trust, make and return to this court a full inven-
201 tory of all the property that may come into his possession as such receiver, and he shall make such reports from time to time of his doings to said court as may be directed by this court,

and he shall do and perform such other acts and duties in connection with said trust as shall be directed, if any, by this court. And said receiver is hereby vested with all the general powers of receivers in cases of this kind subject to the supervision of this court, and may apply for further instructions from time to time as he may desire in the execution of his trust.

And afterwards, to wit, on the 21st day of November, A. D. 1874, it being the sixth judicial day of the November term of the Montgomery Circuit Court, the following proceedings were had:

Now comes George B. Wright, the receiver heretofore appointed herein, and presents his bond to the court, which undertaking is approved by the court and ordered to be put upon file. And
202 in open court the said receiver is sworn to faithfully perform his duties as such receiver, and in all things to perform and obey the orders of the court.

STATE OF INDIANA, }
Montgomery Circuit Court, November Term, 1874. }

We undertake that George B. Wright, the receiver appointed in the above entitled action, shall in all things faithfully perform and discharge the duties of receiver in the action, and in all respects obey the order of the court therein.

GEORGE B. WRIGHT.
HENRY CRAWFORD.
PHINEAS M. KENT.
JOHN S. NEWMAN.

Bond approved by me this 21st day of November, A. D. 1874.
A. D. THOMAS.

STATE OF ILLINOIS, } *ss.*
Cook County, }

Henry Crawford, being duly sworn, says that he is fairly worth the sum of one hundred thousand dollars over and above all his just debts and liabilities.

HENRY CRAWFORD.

203 Subscribed and sworn to before me this 18th day of November, A. D. 1874.

SAMUEL P. McCONNELL,
[s. s.] *Notary Public.*

STATE OF ILLINOIS, } *ss.*
Cook County, }

Phineas M. Kent, being duly sworn, says that he is fairly worth the sum of one hundred thousand dollars over and above all his just debts and liabilities.

PHINEAS M. KENT.

Subscribed and sworn to before me this 18th day of November, A. D. 1874.

SAMUEL P. McCONNELL,
[s. s.] *Notary Public.*

STATE OF INDIANA, } ss.
Marion County, }

John S. Newman, being duly sworn, says that he is worth the sum of fifty thousand dollars over and above all his just debts and liabilities.

JOHN S. NEWMAN.

Subscribed and sworn to before me this 21st day of November, A. D. 1874.

GEORGE C. BUTLER,
[s. s.] *Notary Public.*

The following stipulation is here made and entered by the
204 parties:

It is hereby stipulated that a bill of complaint, and an order appointing George B. Wright receiver, the same in substance as the above and foregoing bill and order, were filed and entered in the De Witt Circuit Court of the State of Illinois, on the 21st day of November, A. D. 1874.

And afterwards, to wit, on the 10th day of December, A.
205 D. 1874, it being the 22nd judicial day of the November term of said court for said year, the following proceedings were had:

Come now the parties by their attorneys and file the following written agreement, to wit:

It is hereby agreed that no action shall be done or taken by the receiver in said cause under and by virtue of the annexed
206 clause of the order of his appointment as such receiver, without giving to George W. Parker, of counsel for certain bondholders or creditors of said railway company, reasonable personal notice of such proposed action of said receiver, so that said Parker shall have full opportunity to take any action in court which he may deem necessary fer the interest of his clients.

Indianapolis, Dec. 10, 1874.

H. CRAWFORD, *for Complainants.*

I assent to the within agreement and will give such notice.
Dec. 10, 1874.

GEORGE B. WRIGHT, *Receiver.*

The said receiver is also empowered out of any moneys in his hands after such payment as aforesaid, to make use of the same to

such amount only as in his judgment shall be necessary to protect the personal property of the company from sacrifice, which may be under pledge or lien, and in order to keep down interest or effect removals of any such obligations.

And afterwards, to wit, on the second day of February, A.
207 D. 1875, it being the second judicial day of the February term of said court for said year, the following proceedings were had:

Come now the Farmers' Loan and Trust Company of New York, by her attorneys, Johnson, Williams and Burr & M. D. White, and files her answer and cross-complaint herein, and the same reads as follows, to wit:

In the Circuit Court of Montgomery county, Indiana, February Term, 1875.

And now comes the defendant, the Farmers' Loan and Trust Company, trustee, and files this their separate answer to plaintiff's bill of complaint herein.

And for answer to so much of plaintiff's petition as they are advised is material, they say that the said Indianapolis, Crawfordsville and Danville Railroad Company was duly incorporated at about the time and for the purpose and with the powers as stated in said bill, and that on or about the 12th day of July, 1869, the said corporation was indebted in the sum of $1,500,000; that said debt was evi-
208 denced by bonds, and the same was secured by a first mortgage lien on all the property of said corporation, including its tolls and franchises, as stated in said bill.

Defendant further admits that on or about the 29th day of February, 1869, the Danville, Urbana, Bloomington & Pekin Railroad Company was duly incorporated with all the powers and for the purposes as stated in said bill.

Defendant further admits that on the 1st day of April, 1869, the said last mentioned corporation duly made the trust deed or mortgage to this defendant, conveying its entire line of railroad then in existence and thereafter to be acquired, extending from the city of Pekin, in Tazewell county, through or as near as practicable to the towns of Fremont, Mackinaw, the town of Concord, Bloomington, Leroy, Mt. Pleasant, Mahomet, Champaign City, Urbana and St. Joseph to the last boundary of the State of Illinois, including all the railways, rights of way, depot grounds and tracks, bridges, viaducts, culverts and other structures, depots, station houses, engine
209 houses and other buildings, and all machine shops, and all other real or personal estate that is held or thereafter to be acquired by said company for use in connection with the said line of railroad, including all locomotives, tenders, cars and other rolling stock and all machinery, tools and implements, fuel and materials for constructing, operating, repairing and replacing the said railroad or

any part thereof, or of any other equipments or appurtenances of the said railroad or any part thereof, and all machinery of all kinds, and all and singular the other personal property of every nature, kind and description whatever, belonging to the said Danville, Urbana, Bloomington & Pekin Railroad Company, and all real estate of every kind belonging to the said Danville, Urbana, Bloomington & Pekin Railroad Company, wherever the same may be located, and also all franchises connected with or relating to the said railroad, together with all the other property, rights, tolls, incomes, tenements, rents, issues and profits as is in and by said trust
210 deed or mortgage, express reference thereto being had, the contents thereof will more fully and at large appear, a certified copy of which is hereto annexed and marked Exhibit "A," and this deponent prays that it may be made a part of this answer, which mortgage was executed to this defendant in trust to secure the payment of 2,000 bonds of $1,000 each, amounting in the aggregate to $2,000,000, payable on the first day of April, 1909, at the city of New York, with interest thereon at the rate of seven per centum per annum, payable in the city of New York on the first days of April and October of each year from the date to the maturity of said bonds on the surrender of the coupons or interest warrants for each semi-annual interest annexed to said bonds; the principal and interest of said bonds being payable in gold.

This defendant, further answering, says that it had full power and capacity to and did accept said trust imposed on it by said indentures.

Defendant, further answering, admits that the said Danville,
211 Urbana, Bloomington and Pekin Railway Company did issue, utter, and put in circulation in the usual course of business and for value the entire issue of bonds provided for in said indenture, amounting to the sum of $2,000,000, and that the entire amount of said issue of bonds were purchased in good faith and are now held and owned by various persons, firms, and corporations, both in Europe and America, many of whom are unknown to this defendant, and it cannot therefore name the same; and that the said entire issue of bonds are now outstanding and unpaid except the interest warrants thereon maturing prior to the 1st of October, 1874, all of which interest warrants falling due prior to said 1st day of October, 1874, have been paid, as this respondent is advised and believes.

Defendant further admits the consolidation of the Danville, Urbana, Bloomington and Pekin Railroad Company, and the Indianapolis, Crawfordsville and Danville Railroad Company of Indiana, and that said agreement of consolidation was ratified by the
212 directors and stockholders of both said corporations, and that said consolidation was legal, and that the consolidated corporation is called the Indianapolis, Bloomington and Western Railway Company, which said company became vested with all the rights, franchises, properties, and privileges, and subject to all the debts, liabilities and obligations of the aforesaid original companies.

Defendaut further admits that thereafter, to wit, on or about the

1st day of October, 1869, the said consolidated company duly executed and delivered to this defendant, as trustee, a mortgage or trust deed, whereby it conveyed to this defendant (subject to said two first mentioned trust deeds) all and singular the property, rights, and franchises of said consolidated railway, extending from the city of Indianapolis, through Crawfordsville, Indiana, through Danville, Urbana, and Bloomington, to Pekin, in the State of Illinois, being about 210 miles in length, with all its equipments, franchises, property, lands, tenements, buildings, fixtures, roadway, goods,
213 and chattels, used in or connected with the operation of the said railroad, including all its rents, incomes, tolls, reversions of every nature and kind whatever, including all the property between the said terminal points which the said consolidated company had, owned, or possessed, or might thereafter acquire; in trust to secure the payment of the principal and interest of the issue of 5,000 bonds of $1,000 each, numbered from 1 to 5,000 inclusive, bearing date the first day of October, 1869, payable to bearer, in the city of New York, on the first day of October, 1909, principal and interest payable in gold, bearing interest at the rate of seven per centum per annum, payable semi-annually in the city of New York, on the first days of October of each and every year from the date until the maturity of the said bonds, which interest payments were evidenced by interest warrants or coupons attached to said bonds; and that said mortgage was duly recorded in each and every county through which said line of road passed in the said States of Indiana and Illi-
214 nois, a certified copy of which first mortgage is hereto annexed, marked Exhibit "B," which defendant prays may be taken as and made a part of its answer herein.

This defendant, further answering, says that it had full power and capacity to and did accept said trust imposed on it by said indenture.

Defendant further admits that the Indianapolis, Bloomington and Western Railway Company did retire all said sum of $1,500,000 of bonds of the Indianapolis and Crawfordsville and Danville Railroad Company heretofore mentioned, and did issue in lieu and exchange therefor $1,500,000 of the said bonds secured by the above last described indenture of date October 1st, 1869, made to this defendant.

Defendant further admits that said Indianapolis, Bloomington and Western Railway Company did issue and put in circulation in the usual course of business, and for value, the additional amount of $1,500,000 of said last named issue of bonds for the purpose of borrowing money for the corporate use and in order to provide
215 additional equipments and machinery for the operation of said roads.

Defendant further admits that no part of the issue of $2,000,000 of the Danville, Urbana, Bloomington and Pekin Railroad Company above mentioned have ever been retired.

Defendant further admits that the remaining $2,000,000 of the last issue of bonds secured by the indenture of October 1st, 1869,

have never been sold or put in circulation, and constitute no indebtedness of or lien upon the property of the said corporation.

Defendant, further answering, says that it has no knowledge, information, or belief as to the truth of the allegations in the bill that the said Indianapolis, Bloomington and Western Railway Company, on the day of October, 1870, made another subsequent mortgage or trust deed to William Dennison and Benjamin E. Smith, to secure another issue of bonds for the sum of $1,500,000, and that said last issue of bonds was put in circulation; therefore this defendant neither admits nor denies the same, but calls for strict proof of said allegation in the bill, if the same is deemed material by the complain-
216 ants. But the defendant says that if this last series of bonds was ever issued and put in circulation, and secured by said last mentioned series of bonds, and the indenture so made is a junior and subsequent lien to both the said indentures aforementioned, made to this defendant, which said first mentioned two indentures made to this defendant are prior and paramount liens on all the property in and by the said indenture conveyed or intended to be conveyed.

Defendant, further answering, says, as to the allegation of the existence of a corporation called the Havana, Mason City, Lincoln and Eastern Railway Company, it has not sufficient information, knowledge or belief to enable it to admit or deny the same, and therefore calls for proof of said allegation, if the same is deemed material by the complainants; and as to the further allegation in the bill that said last mentioned corporation on the 29th day of June, 1872, executed a deed, and conveyed all its property, franchises, &c., to the
217 said the Indianapolis, Bloomington and Western Railway Company, as is in and by said bill alleged, this defendant has not sufficient information, knowledge, or belief to enable it either to admit or deny the same, but calls for strict proof of the same, if it be considered material by the complainants.

And as to the allegation in this bill that the said Indianapolis, Bloomington and Western Railway Company became vested with the property and franchises of the said Havana, Mason City, Lincoln and Eastern Railway Company, or that the said Indianapolis, Bloomington and Western Railway Company did on the 29th of June, 1872, or at any other time, make, execute, and deliver a certain other indenture of mortgage or deed of trust, conveying to the defendant, William Dennison and Robert Turner, its railway from Champaign in Champaign county, Illinois, westwardly through White Heath, Piatt county; Clinton, DeWitt county; Lincoln, Logan county; Macon City and Havana, in Macon county; and also from the said
218 town of White Heath by the way of the town of Monticello in Piatt county, to the city of Decatur in Macon county, all in the State of Illinois, with all its franchises and other property between the said terminal points, in said last indenture mentioned, if any such exists, to secure an issue of 5,500 bonds of said Indianapolis, Bloomington and Western Railway Company of one thousand dol-

lars each, bearing date July 1, 1872, payable to bearer July 1, 1912, etc., this defendant has not sufficient knowledge, information, or belief to enable it either to admit or deny the same, but calls for strict proof thereof; but this defendant does say that if any such indenture of mortgage as last above mentioned has been made and such series of bonds issued they constitute no prior lien whatever on any of the property conveyed or intended to be conveyed by the said two indentures of April and October, 1869, made to this defendant.

Defendant, further answering, says that as to the allegation in the bill that after the consolidation aforesaid the principal office
219 of the consolidated company was located at and has ever since remained at the city of Urbana, Champaign county, Illinois, that all meetings of said shareholders for the purpose of elections and the transaction of other corporate business has always been held at said place, and that prior to the 8th day of August, 1870, the said Indianapolis, Bloomington and Western Railway Company possessed only a small amount of equipment compared with the present ownership, and that since the 8th day of August, 1870, it has purchased and acquired a large amount of personal property, consisting of engines, cars, tools, and machinery, etc., and that the value of such property purchased since the 8th day of August, 1870, and now owned and possessed of it, amount in the aggregate to over $15,000,000, this defendant has not sufficient knowledge, information, and belief to enable it either to admit or deny the same, and therefore calls for strict proof of said allegation, if the same be considered material by the plaintiffs.

But this defendant, further answering, says that even if it
220 be true that any portion of the rolling stock of said consolidated company was purchased after the said 8th day of August, 1870, the same was purchased, as the defendant is advised and believes, with the proceeds arising from the sale of bonds secured by the two indentures made to this defendant above described.

This defendant, further answering, says that it is advised and believes that whether said rolling stock and other property of said company was purchased before or after said 8th day of August, 1870, and whether or not the same was purchased with the proceeds of the sale of bonds secured by the two indentures made to this defendant above described, that said two indentures made to this defendant are now valid, first and paramount liens on all the property then owned or subsequently acquired by said consolidated corporation, the Indianapolis, Bloomington and Western Railway Company, by the terms and provisions of said indentures and by the covenants of further assurance therein contained. And that
221 if any portion of the rolling stock and other equipments of said company was purchased with the proceeds of the last mentioned series of bonds, known as the extension bonds, it was not with any understanding with the holders of the bonds secured by the mortgages of a prior date made to this defendant, that said subsequent

mortgages made to Dennison and Smith, or to Dennison and Turner, or to Joseph T. Thomas, trustees, should become a prior lien upon said rolling stock and other equipment.

This defendant, further answering, says, as it is advised and believes, the said two indentures made to this defendant above described, cover by their terms all the property then acquired or thereafter to be acquired by said Indianapolis, Bloomington and Western Railway Company, and that the bonds secured thereby were put upon the market and sold with the distinct understanding that they were by the terms of said indentures valid, first and paramount liens on all the property then owned and thereafter to be acquired; and that they were purchased on the market for value paid at the
222 time with the same understanding by the *cestuis que* trust of this defendant, and even tho' the constitution of the State of Illinois, adopted on the 8th day of August, 1870, declares that the rolling stock of railroads should be considered to be personal property, this defendant claims that said constitution having been adopted subsequent to the date of said two indentures above described, made to this defendant, and to the sale of the bonds secured thereby, cannot affect the validity of said securities upon said property covered or intended to be covered thereby, and therefore this defendant denies that said constitutional provision of the State of Illinois affects rights of this defendant, under said two indentures of prior date.

This defendant, further answering, says that as to the allegation in this bill that the said Indianapolis, Bloomington and Western Railway Company has become indebted by way of notes, acceptances and other obligations to the amount of two millions and a half of
223 dollars, for which negotiable paper has been issued, defendant says that it has not sufficient knowledge, information or belief to enable it to admit or deny the same; and as to the allegation in the bill that the said paper is becoming due from time to time, and that the said corporation is without any net earnings at present in consequence of a large decrease in the business of the company, this defendant has no sufficient information, knowledge or belief to enable it to admit or deny the same, and calls for strict proof thereof.

This defendant, further answering, admits that suits have been commenced in the different courts of Indiana and Illinois and also in the United States court against said railway company, and that divers creditors are now commencing the same with a view to take immediate steps to secure judgments against said company and issue executions thereon and levy on the property of said corporation which is necessary for its proper operation in its business as
224 a common carrier. But this defendant, further answering, denies that such judgments and executions, when had, will give such creditors any priority over the said two indentures made to this defendant, and if, as said bill alleges, any of the said property is in jeopardy, it is so in jeopardy principally from the efforts of said complainants, who seek by said bill and by their suits in the

various courts to obtain a lien upon the rolling stock covered by the mortgages made to this defendant, and to obtain a sale of all said railroad and other property in violation of the rights of this defendant. As to the further allegation in the bill that in November, 1874, the said railway company made and executed a trust mortgage of all and singular the chattels and personal property of every kind, character and description belonging to said company, to the defendant Joseph F. Thomas, the said trust deed being executed as security for all the creditors and for the benefit and payment of such creditors as hold notes, acceptances, &c., of the railway
225 company not included in the bonded indebtedness, this defendant says it has not sufficient knowledge, information or belief to enable it either to admit or deny the same, and therefore calls for strict proof thereof. But this defendant says that even if such indenture has been made and recorded as alleged in said bill, it in no way affects the validity of the said two indentures made to this defendant as valid, paramount and first liens upon all the property embraced in and intended to be covered by the said two indentures made to this defendant.

As to the allegation in the bill, that in consequence of the general depression of business in the fall of the year 1873, the said railway company has been unable, out of its earnings, to provide for its commercial liabilities and semi-annual instalments of interest on its bonded indebtedness, in consequence of which it made default in the payment of the interest due on the mortgage of October 1st, 1869, on the 1st day of October, 1873, and also on the 1st day of April,
226 1874, and that it made like default in the payment of the semi-annual interest due on the mortgage bonds issued in the name of the Danville, Urbana, Bloomington & Pekin Railway Company, this defendant denies the same, and says that, as it is informed and believes, all the semi-annual instalments of interest falling due on the bonds secured by the two indentures made to this defendant above described, prior to the 1st day of October, 1874, were paid at maturity. But this defendant says that even if it be true, as alleged by said bill, that default was made in the payment of the said semi-annual instalments of interest on the bonds secured by the two indentures made to this defendant in April and October, 1873, then, by the terms of the said indentures, this defendant, after continuance of such default for the period of six months, had a right to enter into and take possession of all and singular the real and personal property of the said railway company, covered or intended to be
227 covered by the two indentures made to this defendant, together with the incomes and profits thereof, and to sell and dispose of all and singular the said mortgaged property, as in and by the terms of said indenture will more fully and at length appear.

Defendant, further answering, says that it is and always has been ready and willing to execute the trust imposed in and under the said two indentures, but says that it has not been advised of any default in the payment of any semi-annual instalments of interest falling

due prior to the 1st day of October, 1874, the period of six months has not yet elapsed, and this defendant says it has not been requested by a majority of the holders of the said bonds, secured by said two indentures made to this defendant, to commence proceedings to foreclose the same, and therefore this defendant has not instituted such proceedings, and did not purpose to do so until the expiration of the said continued default, and appears now only because it has been advised that it is its duty as trustee to prevent the
228 diversion of any of the property covered by said two indentures, as is proposed by said bill of complaint, in violation of the rights of this defendant and of the bondholders for whom it is trustee.

This defendant, further answering as to the allegations in the bill that the complainants, during the past three or four years, have loaned money to said corporation for the purpose of paying interest on the mortgage debt, and paying for labor and supplies necessary for the operating of this line of road, and that said corporation is indebted to said complainants in the sum of eight hundred and sixty-five thousand dollars, &c., this defendant says that it has not sufficient knowledge, information or belief to enable it either to admit or deny the same, and calls for strict proof thereof, if the same be considered material to complainants. And as to the further allegation in the bill, that as much as five hundred thousand dollars of such indebtedness is for money advanced by the complainants to pay in-
229 terest on installments on the two million dollars mortgage of the Danville, Urbana, Bloomington and Pekin Railroad Company, and on the $3,000,000 of bonds outstanding under the first mortgage of the Indianapolis, Bloomington and Western Railway Company, this defendant says it has not sufficient knowledge, information or belief to enable it to admit or deny the same, and calls for strict proof; but this defendant, further answering, says that if it be true, as in and by the said bill alleged, that the complainant did loan to said railway company sums of money with which it paid the semi-annual installments of interest of the bonded debt secured by the two indentures made to this defendant as aforesaid, this defendant says that said coupons were paid by the company in due course of business, and that before the maturity of said coupons advertisements were printed in the public newspapers in the city of New York that said coupons would be paid at maturity at a certain place in
230 the city of New York, and were so paid at said time and place, and that if the complainant did loan to said railway company any portion of the funds necessary to pay or that were used in the payment of said coupons or any of them, said loan is but a debt between the said complainant and said railway company, and that the said loans, as this defendant is advised, cannot be deemed to be substitutions or renewals of the coupons falling due in October, 1873, and April, 1874, or at any other time, and that the plaintiffs are not entitled by subrogation to the rights of the bondholders, but stand in no better position than any other general creditor of such

corporation, so far as said indentures are concerned. And this defendant, further answering, says that, as it is advised and believes and so charges, that if the complainants did loan to said railway corporation any sum or sums of money for the purpose of paying said instalments of interest or for any other purpose, that it made
231 such loan wholly upon the credit of said railway company's paper with the individual endorsements thereon of the president of the company and of the directors of the said company, and upon various collateral securities deposited by said company with the complainants at the time said loans were made.

And as to the allegation in the bill that the complainant held bonds secured by the said several indentures made to said railway corporation, the defendant says it has not sufficient information, knowledge or belief to enable it either to admit or deny the same, and calls for strict proof thereof. And this defendant says that if it be true that said complainants do hold any of the said bonded debt, that they have not called upon this defendant to take any steps to foreclose either of said indentures made to this defendant, by taking possession of the mortgaged property or by proceeding in equity, or by both, or by any other manner whatever; that this defendant is now and always has been ready and willing to execute the
232 trust imposed upon it by said two indentures, and therefore this defendant denies that the said complainants are entitled to have the said mortgaged property, incomes, rents, franchises, sequestered and sold, but that the right to do so is in this defendant as trustee of the said two indentures. And this defendant, further answering, says as to the allegation in the bill that the entire line of railway belonging to said Indianapolis, Bloomington and Western Railway Company, both in Indiana and Illinois, has always been operated as a unit, as one continuous line of railway, and that the rolling stock and equipment have been used indiscriminately over the entire line, and that no portion of the equipment has been appropriated to any part of the railroad, and the earnings and expenditures have not been kept separate, it has not sufficient information, knowledge or belief to enable it either to admit or deny the same, and therefore calls for strict proof thereof.

And as to the allegation in the bill that at least one million
233 dollars derived from the sale of the bonds secured by the mortgage of 1872 to Dennison and Turner has been used in the purchase of the equipments for the original main line, defendant has not sufficient knowledge, information or belief to enable it to admit or deny the same, and therefore calls for strict proof thereof.

And this defendant, further answering, says that, as it is advised and believes, there is no difficulty in ascertaining the rights of holders of bonds secured by the two indentures made to this defendant as aforesaid, but that the same are valid, first and paramount liens on the property conveyed or intended to be conveyed thereby.

And this defendant, further answering, says that this defendant, as the trustee in the said two indentures, claims them to be just, legal

and valid liens prior to all claims of the complainant and to all others, and upon all and singular the property embraced in and covered by said two indentures by the terms thereof, including any
234 and all such property which was held or owned by the mortgagor or grantor at the time of making such mortgages or acquired subsequently thereto—for the amount of all the bonds issued under and secured by the said two indentures or deeds of trust made to this defendant, that is to say, bonds to the amount of $5,000,000, with all interest accrued and to accrue thereon. And inasmuch as the said indentures to this defendant cover by their terms not only the said railroad from Indianapolis, in Indiana, to Pekin, in Illinois, with the appurtenances, equipments and franchises and other things particularly mentioned, and all other property real and personal, and all the rights and interest therein owned or held by said railroad company or thereafter to be acquired by it in connection with said railroad thereby particularly mortgaged or otherwise, together with the tolls, rents or profits to be had, gained or levied therefrom, and all franchises, rights and privileges of said company of, in, to
235 or concerning the same, this defendant, in the performance of its duty to the two classes of bondholders for whom it is trustee, claims that one or both the said indentures made to this defendant constitute paramount and prior liens as well upon said line of railroad between Decatur and Champaign and between Champaign and Havana, and the extension of the main line from Pekin to Peoria, and the appurtenances and equipments and franchises thereof and other things embraced in said subsequent mortgage made to Dennison & Smith, to Dennison and Turner, trustees, and to Joseph T. Thomas, as upon the said line of railroad from Indianapolis to Pekin, and the appurtenances, equipments and franchises thereof; and in any event the defendant claims that the said mortgages or deeds of trust made to this defendant constitute first and paramount liens upon the said line of road from Indianapolis to Pekin, and in those places respectively, and upon all things appertaining thereto or connected therewith, and the franchises thereto belonging, and all things
236 whatsoever which were mentioned or specified or referred to in said indentures made to this defendant, and in respect to the rolling stock and equipments, if it be not, as this defendant claims it to be, first and paramount liens upon the present rolling stock and equipments used upon and appertaining to said entire line of railway, with all its extensions and branches, they are at least such first and paramount liens upon all such rolling stock and equipments which were acquired up to the making of said subsequent mortgages or deeds of trust of October, 1870, and June, 1872, and such first and paramount liens upon such portions of the rolling stock and equipments acquired subsequent to the making of said mortgages of April and October, 1869, to this defendant, as shall correspond with the proportion which the length and business *and business* of the line between Indianapolis and Pekin, and thence to Peoria, bears to the

length and business of the entire line, including its branches and
237 extensions.

Defendant, further answering, says that the business done upon the line Indianapolis and Pekin and Peoria is at least five times greater per mile than the business upon any portion of what is called the extended line or branches.

And this defendant, further answering, says that it, as trustee as aforesaid, and the bondholders under said mortgages of April 1st, 1869, and October 1st, 1869, for whom it is trustee, have a clear equitable right, and as it insists a clear legal right, whereof it cannot be deprived by said railroad company or by any one claiming through or under it by title subsequent to the said two mortgages made to this defendant, to enforce their said mortgages separately and specifically upon all and singular the property whereon the said mortgages constitute the first mortgage liens respectively, apart from and disconnected with any property subsequently annexed to it, and whereon it may be held or adjudged that others have a lien prior to or concurrent with the lien of this defendant, and that it is
238 entitled in so enforcing its mortgages to have the mortgaged property whereon its said mortgages are respectively first liens sold separately for the satisfaction of the mortgage debt to this defendant alone, and not of that debt and debts due to others, and in such manner that the bondholders having such first mortgage lien thereon, in case other bidders shall not offer a price sufficient to pay in full said first mortgage debt, may, if they see fit, bid in or purchase such property whereon they have the first lien, in order to save loss of their mortgage debt without being compelled to purchase in connection therewith any property subsequently acquired by the mortgagors, and whereon it may be adjudged the plaintiffs or others have prior liens.

And this defendant says, as it is informed and believes, that the entire issue of the bonds of the Danville, Urbana, Bloomington and Western Railway Company for two millions of dollars mentioned in and secured by its said mortgage of April, 1869, and that the
239 entire issue of $3,000,000 of their first mortgage bonds of the Indianapolis, Bloomington and Western Railway Company mentioned in and secured by its mortgage to this defendant of October 1, 1869, were duly issued by said companies respectively for full and valuable consideration, and are all now outstanding and unpaid in the hands of bona fide holders, and that all the interest which became due thereon upon October 1st, 1874, and all the interest accruing thereon subsequent to that date, remains in arrears and unpaid, and as to whether or not there are any unpaid coupons falling due at any time before October 1, 1874, on any of said bonds secured by the two indentures made to this defendant, this defendant is not fully informed, but that as to all the interest which fell due prior to October 1, 1874, the said railroad company, as this defendant is informed and believes, paid the same upon presentation of the coupons.

And this defendant alleges that this court is now in the possession and use of the said railroad and other things whereon
240 the said mortgage of October 1, 1869, held by this defendant is a first and paramount lien as aforesaid, by its receiver, George B. Wright, and in the receipt of the earnings and profits thereof, and has so been in possession ever since the 18th day of November, 1874, when he was appointed such receiver by your honor's court under the prayer contained in the bill of the complainants herein, and that without any notice to this defendant, and that during such period since November 18th, 1874, the current net earnings of said railroad between Indianapolis and Pekin, whereon the mortgages held by this defendant are indisputably the first liens, whether connected with or disconnected from the net earnings of said extension from Pekin to Peoria and of the branches above described in respect whereof the priority of lien is in dispute, have been, and such current net earnings, whether connected or disconnected as aforesaid, now are large in extent and ought equitably to be applied to or toward the
241 interest in arrear and the current accruing interest upon the said first mortgage bonds secured by the mortgages held by this defendant, but the said receiver has not applied and does not apply the same to or toward the payment of such interest on first mortgage bonds, but has diverted and is diverting the same to other uses, in violation of the equitable rights of this defendant and of the bondholders for whom it is trustee.

And defendant further alleges that the said railway company did make a like diversion of the earnings of the said railroad in like violation of the rights of this defendant and of the bondholders for whom it is trustee, for a long period prior to the appointment of the said receiver, and this defendant is apprehensive that in case of the dismissal of the complainants' bill that said diversion would be continued by said railroad company.

And this defendant says that the property covered by the said mortgages, and whereon they are a first lien as aforesaid, is
242 a slender and scanty and insufficient security for the payment of its said mortgage debts with the interest accrued thereon, and that this defendant is therefore equitably entitled to the appointment of a receiver of said railroad and other mortgaged property whereon the said mortgages made to this defendant are first liens as aforesaid, with directions to apply the net earnings and profits accruing therefrom under such receivership towards the payment of the accrued and accruing interest upon the said first mortgage bonds issued under and secured by the said mortgages of 1869, held by this defendant, and this defendant prays for such receiver, or for the continuance of the present receiver, with such directions in behalf of and to protect the interests of this defendant.

And this defendant is advised and believes that during the month of January, 1875, the said complainants have obtained by collusion with the said Indianapolis, Bloomington and Western Railway Com-

pany, or at least by the default of said company, a judgment in the U. S. Circuit Court in the southern district of Illinois for the
243 sum of about $900,000, and this with the intent of issuing execution or obtaining a lien upon the rolling stock of said company, which this defendant believes to be fully covered by the two mortgages aforesaid.

This defendant futher says that, as trustee for the holders of the bonds issued under the two indentures made to it, it now feels that it is its duty to said bondholders to file their answer and cross-bill, as it is advised and believes that the original bill is filed in hostility to the interests of the bondholders for whom it is trustee, and that if this defendant should stand by and permit the foreclosure and decree on the principles stated in the original bill, and a sale of the property and a distribution of the proceeds on the principles set out in said bill, it would not be fully discharging the trust and obligations imposed on it by the said deeds of trust, and that it is advised by its counsel that it is its duty as such trustee to file this answer and cross-bill and to insist on all its rights and to prevent the
244 trust estate from being diverted from the purpose of said trust.

And this defendant further prays for an order to be entered in this cause that said receiver be required to retain possession of said property as the receiver of the court for the benefit of this defendant herein, and that said receiver be not discharged, nor any order made touching him without reasonable notice to and opportunity to be heard by this defendant, and that all funds accumulating in the hands of the receiver to be held subject to the final decree herein, and for a decree that said mortgage of October 1, 1869, made by the I., B. & Western R. R. Co. above described, be decreed to be a valid and first lien on all the property and effects of said company from Indianapolis to the eastern boundary of the State of Illinois.
245 And this defendant having answered this bill as fully as it is advised, makes this its answer a cross-complaint herein, and prays for the construction of this court upon what of said railroad as now constructed and of its rolling stock and other property its mortgage liens extend, and that an account may be taken of the amount due on the mortgages represented by this defendant so far as the same may be within the jurisdiction of this court, that plaintiffs and the other defendants hereto may be decreed to pay the same by a short day to be fixed by this court, and that in default of such payment the whole of said mortgaged property included in and covered by the said mortgages to this defendant, and whereon they are the first mortgage liens respectively, as well as the road and machinery, and equipments, and road-bed, and station grounds, and other property in existence at the date of the said two mortgages made to this defendant, as those afterwards acquired, created, and added to it, be sold at public auction by order and under the direction of this court, and that all the other

246 parties to this action, that is to say, Malcolm C. Turner, Thomas C. Turner, James Turner, Robert Turner, Archibald Turner, George M. Turner, and Joseph S. Decker, copartners under the firm name of Turner Brothers; the Indianapolis, Bloomington and Western Railway Company, William Dennison, and Benjamin E. Smith, trustees; William Dennison and Robert Turner, trustees; Joseph T. Thomas, trustee, and all persons claiming under them, or any or either of them, subsequent to the commencement of this action, may by the judgment and decree of this court be barred and foreclosed of and from all right, title, claim, lien or equity of redemption, of, in, or to the mortgaged property and premises so sold or any part or parts thereof, and that the lien of this defendant under said mortgages may be decreed to be paramount and superior to all others, and the proceeds of such sale be applied in payment of said mortgage debts in preference to all others, and that pending this suit a receiver be appointed, or the present receiver be continued, of said railroad and other
247 property mortgaged as aforesaid to this defendant, with directions to apply the net earnings and profits thereof to or toward the payment of the interest in arrear and the interest accruing and to accrue upon the said bonds issued under and secured by the mortgages of April 1st, and of October 1st, 1869, held by this defendant as aforesaid, and for such other and further relief as their case may require.

THE FARMERS' LOAN AND TRUST COMPANY OF NEW YORK CITY,
By WILLIAMS & BURR, *Its Solicitors.*

J. AUGUSTUS JOHNSON, of New York City,
Of Counsel.

STATE OF INDIANA, } *ss.*
County of Montgomery, }

J. Augustus Johnson, being duly sworn, on oath says that he is attorney for the Farmers' Loan and Trust Company of New York city; that he has read the foregoing answers and cross-
248 complaint filed by said Farmers' Loan and Trust Company, and that the same is true in substance and in fact, as he verily believes.

J. AUG. JOHNSON.

Subscribed and sworn to before me this 2d day of February, A. D. 1875.

I. M. VANCE, *Clerk.*

Thereupon, on motion, it is ordered by the court that this cause be continued to next term.

Here follows the order of court extending the receivership herein to the Farmers' Loan and Trust Company, made and entered in said

Circuit Court of Montgomery county on the day of , 18 .

249 And the Farmers' Loan and Trust Company, one of the defendants in said bill, having answered the said bill and filed in said case a cross-bill, by which it appears said Farmers' Loan and Trust Company is entitled to appointment of a receiver for said property, if one had not already been appointed by the court; and the said Farmers' Loan and Trust Company having applied to this court for an order that said receiver be retained for benefit of said Farmers' Loan and Trust Company, it is hereby therefore ordered that the receiver now in charge of said property retain the custody of the same for the benefit of Farmers' Loan and Trust Company and all other parties in interest in said suit until the further order of this court; and that said Farmers' Loan and Trust Company, and all other parties in interest in said suit, have leave to apply to this court for all proper orders touching said receiver. And that said receiver shall not be discharged, nor any order made touching him without reasonable notice to said Farmers' Loan and Trust Company, or its solicitors in said cross-bill, &c.

250 *Order entered in Dewitt County Circuit Court, Illinois, February 2d, 1875, in vacation, entending Receivership to the Farmers' Loan and Trust Co.*

In the matter of the bill filed by Malcolm C. Turner, James Turner, Thomas E. Turner, Robert Turner, Archibald Turner, George M. Turner and Joseph S. Decker, copartners under the firm name of Turner Brothers, against the Indianapolis, Bloomington and Western Railway Company, the Farmers' Loan and Trust Company, William Dennison, Benjamin E. Smith, Robert Turner and Joseph T. Thomas, in which case a receiver was appointed to take charge of the Indianapolis, Bloomington and Western Railway Co., its property and assets, and manage the same under the direction of this court, the Farmers' Loan and Trust Company, one of the defendants in said bill, having answered the said bill and filed in said case a cross-bill by which it appears said Farmers' Loan and Trust Company is entitled to appointment of a receiver for said property, if one had not already been appointed by the court, and the said Farmers' Loan and Trust Company having applied to me for an order that said receiver be retained for benefit of said Farmers' Loan and Trust Company, it is hereby therefore ordered that the receiver now in charge of said property retain the custody of the same for the benefit of said Farmers' Loan and Trust Company, as well as all parties in-
251 terested in this suit, until the further order of this court, but this order is not to modify the terms of the order already made in the application and paying out of money. And that said Farmers Loan and Trust Company have leave to apply to this court for all proper orders touching said receiver, as well as others interested,

and that said receiver shall not be discharged nor any order made touching him without reasonable notice to said Farmers' Loan and Trust Company, or its solicitors in said cross-bill, nor without like notice to all parties to the suit.

Dated this 1st day of February, A. D. 1875.

LYMAN LACEY, *Judge.*

252 *Order entered in the Dewitt County Circuit Court, Illinois, April 7th,* 1875.

This day came again the parties hereto by their respective solicitors, and the court on complainants' motion doth enter the following supplemental order herein, to wit:

And the receiver is further instructed to pay such claims for right of way and depot grounds purchased prior to his appointment and secured by mortgage or trust deeds or held under bond or contract, the title to the company depending upon payment of the amount specified. For this purpose the receiver is instructed to borrow money not to exceed the sum of thirty-five thousand dollars ($35,000), such sum to be a charge on the roadway and income as part of the necessary expenses in managing the property now in the jurisdiction of this court. In borrowing the money as in this order provided for, the receiver is empowered to issue such evidences or certificates of indebtedness as he may by counsel be advised. The provisions of a previous order of the court restricting the receiver to the payment of wages due operatives and employees for services rendered the road and amounts due for supplies needed in operating the road since July 1, 1874, are so modified as to place both classes of claims for services rendered and supplies furnished prior to July 1, 1874, on the same basis with claims subsequent to July 1, 1874.

253 Here follows an order made and entered in the above entitled cause in the Circuit Court of Montgomery county, Indiana, on the day of April, 1875.

And now comes the receiver heretofore appointed by this court, and files his report and accompanying documents, and also presents his petition and accompanying documents, asking for instructions as to certain matters touching the proper discharge of his trust; and upon consideration of the said petition and documents, it is ordered by the court that for the purpose of repairiug and preserving in a fit and proper condition for business the roadway of the said Indianapolis, Bloomington and Western Railway Company, said receiver is instructed to purchase on the lowest and most available terms practicable, not exceeding three thousand tons of iron or steel rails, and necessary spikes, bolts and splice bars to lay the same, for the purpose of relaying tracks; such purchase to be a charge upon the roadway and incomes, part of the necessary expense of managing the property now in the jurisdiction of this court. * * * * * * * * And the receiver is further authorized and instructed to pay such

claims for right of way and depot grounds purchased by the company prior to his appointment, and secured by mortgage or
254 trust deeds, or held under bond or contract, the title thereof to the company depending upon the payment of the amount specified for this purpose; the receiver is authorized to borrow a sum of money not to exceed the sum of thirty-five ($35,000) dollars, such amount so borrowed to be a charge on said roadway and income therefrom, as part of the necessary expenses in managing the property in his charge now in the jurisdiction of this court. In borrowing the money as in this order provided the receiver is empowered to issue such evidences or certificates of indebtedness, and in such denominations and in such form as he may deem best and proper, expressing upon their face the object for which they are issued substantially and by what authority.

255 *Order entered in the Dewitt County Circuit Court, Illinois, in vacation, July 7, 1875.*

Now on this day, upon the motion of R. E. Williams, attorney for trustees of D. U. B. & P. bonds and I. B. & W. R'y first bonds, J. D. Campbell for holders of said D. U. B. & P. bonds, and J. N. Jewett, att'y for trustees of extension I. B. &. W. bonds:

It is hereby ordered by the court that the order heretofore made by which the receiver was authorized to issue certain certificates for the purchase of iron bolts, splices, &c., and for right of way be so modified that the said receiver issue no more certificates for any purpose, except such as may issued for right of way, until the further order of this court, except to fill contracts already made, and for the purchase of iron the said receiver is authorized to issue $165,000, and for bolts and splices and spikes $11,000, and no more, until the further order of this court, and as to the said right of way, not to exceed the sum of $35,000. The above amounts are inclusive of all certificates that have been issued. It being understood that the above limit applies as well to the State of Indiana as to Illinois, and no greater amount shall be issued on the entire line. It is fnrther ordered that the said receiver pay nothing except the regular running expenses of the road without the order of the court, except as heretofore ordered.

LYMAN LACEY, *Judge.*

256 *Order entered in the Dewitt County Circuit Court, Illinois, September 9th, 1875.*

It is ordered by the court that the receiver in the above cause be, and he is hereby, ordered not to execute or negotiate any receiver's certificates for any purpose without further order of court, except those provided for and authorized by order of this court herein of date July 7th, 1875, and that all earnings or receipts of the road, over and above current operating expenses, shall first be appropriated to the payment of indebtedness incurred by the receiver, in-

cluding the receiver's certificates heretofore issued and negotiated, provided that this order shall not be construed to prevent the receiver from negotiating the $35,000 certificates with which to pay the right of way claims heretofore ordered. This order is not intended to revoke or annul the orders heretofore made in regard to back-pay; those orders are to be carried out as formerly.

In the matter of the application of the Western Car Company in said cause, for the confirmation of the award of Jas. B. Hodgekin and Robert Harris of date June 3d, 1875, relating to the rental of the cars of the said Western Car Company, and upon the hearing of the parties in interest, and upon full consideration by the court, it is ordered by the court that the said award or contract be, and the same is hereby, disapproved and set aside by agreement of the parties. And it is further ordered, that it be and is hereby re-
257 ferred to C. L. Holstein, of Indianapolis, as special master herein, to take evidence as to what was a reasonable rental for the use of the cars belonging to the Western Car Co. on the road of the said receiver, from the taking 1st day of December, 1874, to the 1st day of September, 1875, and report the evidence so taken to this court at the next term thereof. Before taking said evidence, said master shall notify the parties in interest in said cause, or their attorneys, of the time and place of taking such evidence. Said master is further authorized to state and report an account of the value of the repairs and replacements on and to said cars as done or made by said receiver, and the amount paid by said receiver to said car company, or to its authorized agents, as rental for said cars, including the amount paid by said receiver, by order on Geo. Darling, to B. E. Smith as pres't of said Western Car Company.

258 *Order Entered in the Dewitt County Circuit Court, Illinois, December 7th*, 1875.

Now on this day this cause coming on further to be heard, and the court being fully advised, doth now order that the orders heretofore made authorizing the receiver to pay all wages due employees on account of labor performed after July 1st, 1874, be and the same is hereby amended so as to include the payment of all back-pay rolls or certificates or vouchers for labor, and that all such payments be made *pro rata* upon all amounts due.

Now on this day this cause coming on further to be heard, comes George D. Wright, the receiver herein, and files his report herein, and asking certain instructions of this court touching matters
259 in said report set forth, and the court being fully advised in the premises, doth order as follows, viz., by agreement of R. E. Williams, George W. Parker, J. D. Campbell, and R. G. Ingersoll—

First. That the report of said receiver be and the same is hereby ordered to be filed, and said receiver is ordered to have the same printed.

Second. That said receiver be and he is hereby authorized to negotiate for the purchase of cars and locomotives, and for the leasing of the same, and report to the court before entering into any contract the best terms upon which cars and locomotives can be purchased and leased for the use of the road.

3d. That in all cases where land has been deeded or sold to the said railway company, and the same not paid for, the said land being, in the judgment of the receiver, necessary to the said road, the said receiver is hereby ordered to pay for the same as he may be able to, keeping the account that the same can be charged to the proper part of the line.

4th. That said receiver be and he is hereby authorized to compromise the claim of the Indianapolis and St. Louis Railroad Company for the use of that company's tracks, as set forth in said receiver's reports, provided he can do so out of the current earnings of the road.

260 8th. That the receiver also be and he is authorized in all cases where no contract has been made for the purchase of the right of way to purchase the same upon such terms as he may deem just and reasonable, and all payments upon right of way shall be so made and the accounts so kept that the same can be charged according to the fact to the main line or either branch.

261 9th. That the receiver be authorized to pay the mechanic's lien of Henry Taylor as set forth in said report.

10th. That said receiver be and he is hereby authorized to take such action as he may deem for the best interest of the trust in regard to the contract with the Paris and Danville Railroad Company, and may modify or change the same as he can agree with said company or its receiver, or take the necessary steps for the cancellation of the same.

[Pages 262 and 263 crossed out in original.]

264 In the Circuit Court, December Term, 1875.

STATE OF ILLINOIS, }
Dewitt County, } *ss.*

To the Hon. ———, Judge of the Circuit Court of the State of Illinois within and for said county.

Respectfully represents unto your honor, your petitioner, the Paris and Danville Railroad Company, by James A. Eads, its receiver, that heretofore, to wit, on the 25th day of May, A. D. 1869, the firm of John C. Short and Co., composed of John C. Short, Abraham Sandusky and Andrew Gundy, were the owners and seized in fee-simple of a large tract of land lying near to and in and contiguous to the city of Danville, Illinois, and that the said John C. Short was also seized of a large tract of land in and on the west of the city of Danville aforesaid, said lands of which the said John C. Short and Company and John C. Short were so seized as aforesaid amounting in length to more than two miles. And being so seized as aforesaid,

the Danville, Urbana, Bloomington and Pekin Railroad Company, then being and existing as a corporation under and by virtue of
265 the laws of the State of Illinois, and then being desirous of locating a line of railroad over the lands of the said John C. Short and Company and John C. Short; and also being desirous of establishing a depot on said lands and of obtaining depot grounds on section number seven (7), township number (19) nineteen north of range eleven (11) west, from the said John C. Short and Co. for the use of said railroad company, their successors and assigns; and in consideration that the said John C. Short and Company and the said John C. Short would release and convey to the said Danville, Urbana, Bloomington and Pekin Railroad Company the right of way of said railroad over the lands of the said John C. Short and Company and John C. Short, and convey to said railroad company certain depot grounds on section seven (7) aforesaid; and in further consideration of certain other mutual covenants and agreements entered into by and between the said John C. Short and Company and said railroad company, it was then mutually agreed that said railroad company should receive from the said John C. Short and Company at the coal mines of the said John C. Short and Company on section seven (7), township and range as aforesaid, on the tracks of said railroad, for the term of ten years from the day and year aforesaid, all
266 the coal which should be required for the use of said railroad company, their successors and assigns, for their engines, machine shops, repair shops, stations, &c., and for all other purposes of said railroad company, their successors and assigns, between the city of Bloomington, McLean county, Illinois, and the city of Danville, in Vermillion county, Illinois, both places inclusive, said railroad company and their successors and assigns to pay the said John C. Short and Company the sum of seventy cents per ton of two thouand pounds, in addition to the cost of placing the same on the cars of said railroad, and the following items by the terms of said contract were to be included in the estimates of the cost of placing the coal on the cars as aforesaid:

1. The price paid the miner for digging the coal.

2. The cost of procuring and placing the props or supports for the roof of the mines.

3. The expense of removing the coal from the mines and placing it on the cars.

And the said John C. Short and Company covenanted with said railroad company to furnish to said railroad company at the place aforesaid and during the term of ten years aforesaid all the coal which should be required by the said railroad company, their successors and assigns, and between Bloomington and Danville, both places inclusive, at the prices aforesaid, and in accordance with the terms aforesaid.

267 Your petitioner further represents that said railroad company, in order to encourage the enterprise of the working of said mines so belonging to the said John C. Short and Company, and

with a view of obtaining a large transportation of coal therefrom over said railroad company, said railroad further agreed and obligated themselves, their successors and assigns, to furnish to the said John C. Short and Company, their heirs and assigns, twenty (20) cars of not less than ten tons each per day during said term of ten years, unless prevented by unavoidable accident or casualty, for the shipment or transportation of coal from said mines, and to have the same at the minimum average rate which coal shall be hauled from time to time by the several railroads in Illinois; provided that said John C. Short and Company shall require less than twenty cars per day, then said railroad company shall furnish only so many cars as may be required; and provided further that said John Short and Company should give to said railroad company, their proper agents and officers, reasonable notice of the number of cars required per day, and that said railroad company should give to the said John C. Short and Company reasonable notice from time to time of the amount of coal required per day by said railroad company.

268 Your petitioner further represents that it was mutually agreed between the said John C. Short and Company and said railroad company that said John C. Short and Company should have the right and privilege of the extension of said contract for ten years from the 25th day of May, 1879, at the market rates for coal in said roads, so far as said contract related to supplying said railroad company, their successors and assigns, within the territory and between the places above described, and also the extension of said contract for said additional ten years so far as the same relates to the furnishing by said railroad company to the said John C. Short and Company twenty cars per day for the transportation or shipment of coal as aforesaid. And it was further agreed that all coal furnished to said railroad company, their successors and assigns, under said contract during any given month should be paid for by said railroad company on or before the 15th day of the month next succeeding. A copy of which said contract is hereto annexed marked Exhibit "A," and asked to be taken and made a part of this petition.

Your petitioner further represents that the said John C. Short and Company, in strict compliance with the terms of said contract, conveyed to said railroad company the right of way of said rail-

269 road over the lands of the said John C. Short and Company in and west of the city of Danville aforesaid, amounting in length to more than two miles, and also depot grounds selected by said railroad company on section number seven, and that the said John C. Short conveyed to the said railroad company the right of way over his lands and lots in the city of Danville aforesaid, and the said John C. Short and Company made extensive preparation and expended large sums of money in fitting up and operating said coal mine on section seven (7) aforesaid, so as thereby to be ready and able to comply with the terms of said contract in furnishing coal for the engines, machine shops, repair shops, stations, &c., and for all

other purposes as required and contemplated by the terms of the contract aforesaid. And that the said John C. Short and Company within a short time after the making of said contract commenced to and did furnish said railroad company with all the coal used and required by said railroad company from thence until the consolidation of said railroad company with the Indianapolis, Crawfordsville and Danville Railroad Company, which took place on, to wit, the —— of ———, 18 —, and said consolidated railroad company became a corporation under the name and style of the Indianapolis, Bloomington and Western Railway Company, and as such consolidated
270 company was and is possessed with the franchises of each of said original companies so consolidated as aforesaid, and said consolidated company by virtue of the consolidation became and is bound to keep and perform the covenants and agreements of each of said original railroad companies, and being so bound the said Indianapolis, Bloomington and Western Railway Company from the date of said consolidation until, to wit, the 1st day of August, 1870, received coal from the said John C. Short and Company under and in pursuance of the terms of said contract.

Your petitioner further represents that in consideration of the premises aforesaid and the legal obligation of the Indianapolis, Bloomington and Western Railway Company, as the successor of the Danville, Urbana, Bloomington and Pekin Railroad Company, on, to wit, the 1st day of August, 1870, the said Indianapolis, Bloomington and Western Railway Company entered into an agreement with John C. Short, Abraham Sandusky, and Andrew Gundy, partners in trade under the firm name and style of John C. Short and Company, by which said last-mentioned railway company, after reciting the contract first aforesaid so made between the Danville, Urbana, Bloomington and Pekin Railroad Company and John C. Short and Company as aforesaid, and the obligation aforesaid
271 of the said John C. Short and Company to furnish coal, and the railroad company first aforesaid to receive the same, and the agreement of the said Danville, Urbana, Bloomington and Pekin Railroad Company with the said John C. Short and Company to build and maintain for the said John C. Short and Company certain side tracks or switches from the main line of the railroad to the coal mines aforesaid, and also to do and perform various and sundry other matters and things for the said John C. Short and Company; and also reciting that it was desirable on the part of the Indianapolis, Bloomington and Western Railway Company and the said John C. Short and Co. to extend the operations of said contract so that the said John C. Short & Co., their heirs and assigns, should supply to the railway company last aforesaid all the coal to be used by said railway last aforesaid between Danville, Illinois, and Indianapolis, Indiana, the latter place inclusive, for all the purposes of said railway company, for the term of ten years from September 1st, 1870, with the privilege to the said John C. Short and Company of the extension or renewal of said contract for a like term of ten years after

September 1st, 1880; and the railway company last aforesaid, in consideration of the premises and the sum of one dollar, the receipt of which was acknowledged in said contract, cove-
272 nanted and bound itself, its successors and assigns, to receive and take of the said John C. Short and Company, their heirs and assigns, in manner and form as prescribed in said contract of 25th of May, 1869, all the coal to be used by the railway company last aforesaid during the said term of ten years, and the renewal of the same for a further term of ten years, as above provided, between Danville, Illinois, and Indianapolis, Indiana, the latter place inclusive; and to allow and pay to the said John C. Short and Company therefor the same rate and at the same time as in the contract first aforesaid, and to perform for said John C. Short and Company, in the same manner, in all things, as is provided to be done in said contract first aforesaid; and the said Indianapolis, Bloomington and Western Railway Company further covenanted with the said John C. Short and Company, their heirs and assigns, on the coal lands of the said John C. Short and Company, on section No. seven aforesaid, and on section No. twelve (12), township nineteen, range twelve west, to build and thereafter maintain a side track or switch, to extend from the main track of said railroad on said section No. seven in an easterly and southerly direction toward the Big Vermillion River, with such grade, if practicable, as will lay said track below the coal bed in said lands where said coal crops out on the bluffs of the said Big Vermillion River with a south exposure, and to
273 so construct said track, if practicable, so that the same would be below the coal along the bluffs of said river on section seven aforesaid, in order that the said John C. Short and Company might be enabled to construct a dump or "chute" from the level of the bottom of the upper coal seam in said lands in a horizontal direction to said track, and screen the coal into the cars of said last mentioned company without being obliged to elevate said coal, and said switch or side track to extend from said exposure or outcrop to the range line between range eleven and twelve west, and to be constructed within six months from the date of said last mentioned contract to said exposure or outcrop, and the remainder of said side track from said range line westerly along the south exposure in said section twelve (12) within a reasonable time after a reasonable and proper notice given by the said John C. Short and Company, their heirs and assigns, of the necessity of its extension; and the said railway company covenanted with the said John C. Short and Company to receive their coal intended for shipment to consignees, or for the use of said company, at the mouth of said mines, and to haul the same therefrom to the depot or station of said railway company on said lands, free of charge to the said John C. Short and Company, their heirs and assigns, and to haul the same to
274 market for them, their heirs and assigns, at the lowest minimum rate at which coal is hauled by other railroad companies; and also to furnish to the said John C. Short and Company,

their heirs and assigns, twenty cars per day for filling for shipment by them to consignees during the existence of said contract, or its extension, in addition to the number therein provided for; provided that the business of the said John C. Short and Company, their heirs and assigns, shall require that number of cars; and provided further, that it is practicable for the railway company last aforesaid to furnish the same from the rolling stock of said company. And the said John C. Short and Company, in consideration of the premises, agreed and bound themselves, their heirs and assigns, to furnish to said railway company all the coal to be used by said company, at the price, upon the terms, and in the time and manner before mentioned, and to use all reasonable exertions to make sale of their said coal, so as to produce the greatest practicable amount of traffic on said road, all of which will more fully and at large appear by reference to a copy of the agreement last aforesaid, herein filed and marked Exhibit "B," and made a part of this petition.

Your petitioner further represents that after the making of the contract last aforesaid, the said John C. Short and Company
275 expended large sums of money in opening said mines and in purchasing the necessary tools, machinery and equipments for carrying into successful operation the provisions of said contract, and that said railway company from the time of making said contract last aforesaid commenced to receive coal from the said John C. Short and Company under said contract, and the said John C. Short and Company continued to deliver to the said railway company all the coal required by said company from thence up to the first day of January, 1873. And that said railway company laid down a side track or switch extending from the main track of said railroad on said section seven (7) to where the coal crops out on the bluffs of said Big Vermillion River on section seven (7) aforesaid, and took and received said coal at the mouth of said mines, and in all things recognized said contracts as in full force and obligatory upon said railway company.

Your petitioner further represents that on, to wit, the 1st day of January, 1873, your petitioner, the Paris and Danville Railroad Company, became the owner and from thence hitherto have been seized in fee-simple of said coal mines and of the land in which said coal is imbedded, and that your petitioner at the same time became the owner of said contracts by assignment from the said John C. Short and Company, all of which said railway company had notice.

276 Your petitioner further represents that after it had acquired title to said coal mines and had acquired the contracts aforesaid by assignment and from thence hitherto they have been delivering coal to said railway company, and said railway company has been receiving coal under said contracts from your petitioner, said railroad company, during a period of more than two years, recognizing the assignments aforesaid of the contracts aforesaid so made to your petitioner as aforesaid, and the obligation of said railway company to keep, observe and to perform the conditions and cove-

nants contained in said contracts, and that during the time that said railway company have been receiving coal under said contracts they have become largely indebted, and now are largely indebted to your petitioner for coal so received from your petitioner by said railway company as aforesaid in the sum of, to wit, one hundred thousand dollars, all of which will more fully and at large appear by reference to a statement of account herewith filed, marked Exhibit "C," and made a part of this petition.

Your petitioner further represents that after the making of the assignment aforesaid for the period of, to wit, six months, said railway company received all their coal for their engines, stations,
277 machine and repair shops, and for all other purposes between the cities of Bloomington and Indianapolis, both places inclusive, and that after, to wit, the period of six months, said railway company failed to take and receive from your petitioner all the coal they were bound to take and receive according to the terms of their contracts aforesaid, although your petitioner was ready and willing to deliver said coal and to keep and observe said contracts on its part, and that by reason of such failure your petitioner was subjected to large losses growing out of the preparation made by your petitioner and by the said John C. Short and Company, and by reason of the loss of the gains and profits which your petitioner could and would have made by the sale and delivery of said coal in pursuance of the terms of said contracts, to wit, losses in the sum of one hundred thousand dollars.

Your petitioner further represents that said railway company, after, to wit, the period of six months from the making of the assignment aforesaid, failed, neglected, and refused to furnish to your petitioner twenty cars per day for the shipment of coal over said railroad of said railway company to consignees, as they were legally bound to do by the terms of said contracts, and that by reason thereof your petitioner was prevented and hindered from making
278 large gains and profits which it could and otherwise would have made, your petitioner having from time to time requested said railway company to furnish said cars as required by the terms of said contracts (and also notified said railway company of the number of cars required, to wit, (20) twenty cars per day, a reasonable time before required.)

Your petitioner further represents that heretofore, to wit, on the day of November, A. D. 1874, George B. Wright was duly appointed receiver of the Indianapolis, Bloomington and Western Railway Company by the Circuit Court of the State of Indiana within and for the county of Montgomery, and also by the Circuit Court of the State of Illinois within and for the county of De Witt, and that he accepted said appointment, qualified as receiver, and under the decree of said court took possession of said railway, and has been in the possession and has had the control and management of the same from thence hitherto, and that after the said Wright took possession and control of said road as aforesaid, to wit, for the period

of three months, he continued with full knowledge of all the facts to receive coal from your petitioner under said contracts, and
279 from time to time promised and agreed with your petitioner to keep and observe said contracts on behalf of said railway company.

Your petitioner further represents that the deed for the right of way, depot grounds, etc., so made by the said John C. Short and Company to the railroad company first aforesaid, being lost, the said John C. Short and Mary E. Short, his wife, Abraham Sandusky and Ellie Sandusky, his wife, and Andrew Gundy, executed to the Indianapolis, Bloomington and Western Railway Company a new deed for the same, at the request of the said Wright, receiver as aforesaid, and that said deed so executed was delivered to the said Wright as receiver as aforesaid, and that said railway company is now in possession of said right of way and depot grounds so conveyed as aforesaid as a part consideration for the making of said contracts, and that said right of way and depot grounds are of great value, to wit, of the value of fifty thousand dollars.

Your petitioner further represents that the said Wright, receiver, etc., after receiving said deeds gave out and pretended that he, as receiver, was not bound to receive coal from your petitioner under said contracts, and that he would not do so unless he was specially authorized and directed so to do by the court, and that your petitioner having at the time a large force of laborers, machinery, and
280 other things necessary and requisite to carry on said mines, and to keep and perform said contracts, was compelled to deliver coal to the said Wright as receiver, under an agreement that the said Wright should receive said coal and account monthly therefor at the rate of one dollar and fifty cents per ton, and that if said contracts were by the court adjudged to be legal and binding on said railway company, then that the said Wright as receiver should pay for said coal according to the terms of said contracts, and that the said Wright as receiver has received coal from your petitioner under the arrangement last aforesaid, and that there is now due your petitioner for the coal so received by the said Wright the sum, to wit, dollars, all of which will more fully and at large appear by reference to a copy of the account of the same herewith filed and marked Exhibit "D" and made a part of this petition.

Your petitioner further represents that the said Wright as receiver has not taken and received from your petition all the coal used by him which was necessary for the purposes aforesaid in accordance with the terms of the contract aforesaid, but has purchased and received coal from other parties and other sources to the great damage and loss of your petitioner; your petitioner during all the time being ready and willing to furnish coal in accordance with the terms of the contract aforesaid. Your petitioner further represents
281 that there has been no settlement between your petitioner and the said railway company, or between your petitioner and said receiver, but that the cost of mining said coal was approximated

for the purpose of payment, and that the *approximated* cost was below the *actual* cost of mining said coal.

Your petitioner further represents that said coal was so furnished as aforesaid under such contracts, was furnished to be used, and was used as fuel in running and operating said railroad, and that because thereof your petitioner is entitled to a lien on all the property, real, personal and mixed, of said railroad corporation for the amount found to be due to your petitioner for coal so furnished as aforesaid. Your petitioner further represents that the said Wright, receiver, refused to furnish an engine to remove said coal from the mines aforesaid to the main track of said railway company as provided by said contracts, and because thereof your petitioner was subjected to heavy expense in providing said engine, to wit, the expense of ten thousand dollars. Your petitioner avers that it always has been ready and has offered and now offers to specificallly perform said contracts.

282 Your petitioner therefore prays that the said Geo. B Wright, as receiver as aforesaid, be ordered and decreed to specifically perform said contracts, and to comply with the terms thereof, and that an account may be taken between your petitioner and the said George B. Wright, as receiver aforesaid, and between your petitioner and the said railway company, for the coal so delivered by your petitioner to said railway company and said receiver; and that the amount found to be due your petitioner be declared a lien upon all the property, real, personal and mixed, of said railway company, in accordance with the provisions of the statute in such case made and provided. And also that an account may be taken of the amount that is due to your petitioner by reason of said railway company failing to take and receive coal in accordance with the terms of said contract, and to furnish cars in accordance with the terms of said contract.

Your petitioner prays for such other further and different relief as equity and good conscience may require, &c.

A. J. GALLAGHER AND
HENRY AND PENWELL,
Att'ys for Petitioner.

283 *Exhibit "A" to foregoing Petition of Eads, Rec'r, &c.*

This indenture, made and entered into this 25th day of May, A. D. 1869, by and between the Danville, Urbana, Bloomington and Pekin Railroad Company of the State of Illinois, party of the first part, and John C. Short, Abraham Sandusky and Andrew Gundy, partners in trade under the firm name of John C. Short & Co., party of the second part, witnesseth:

1. That said party of the first part, for and in consideration of the matters and things hereinafter set forth and of the performance by said party of the second part of the several covenants by them, the said party of the second part, herein contained, do hereby agree

and contract with said party of the second part to receive from said party of the second part at their mines in sec. No. 7, in township No. nineteen (19), north range No. eleven (11) west, in Vermillion county, Illinois, on the tracks of said railroad, for the term of ten (10) years from the date hereof, all the coal which may be required for the use of said party of the first part, their successors and assigns, for their engines, machine shops, repair shops, stations, &c., and for all other purposes of said party of the first part, their successors and assigns, between the city of Bloomington, McLean
284 county, Illinois, and the city of Danville, in Vermillion county, Illinois, both places inclusive.

And for all the coal which may be furnished by said second party, their heirs and assigns, to said first party, their successors and assigns, under this contract, said party of the first part shall pay to said second party seventy (70) cents per ton of two thousand pounds, in addition to the cost of placing the same in the cars of said railroad.

And it is hereby agreed that the following items shall be included in the estimates of the cost of placing the coal on the cars as aforesaid:

1. The price paid the miners of digging the coal.

2. The cost of procuring and placing the "props" or supports for the roofs of the mines.

3. The expense of removing the coal from the mines and placing it in the cars.

2. And in consideration of the premises said second party hereby agree and bind themselves, their heirs and assigns, to furnish to said first party at the place above named and during said term all the coal which may be required by said first party, their successors and assigns, during said term of ten years, and between
285 said Bloomington and Danville, both places inclusive, at the prices above named and in accordance with the above stipulations in detail.

3. And in further consideration of the donation by said party of the second part to said party of the first part of the right of way of said railroad over the lands of said party of the second part in and west of the city of Danville aforesaid, amounting in length to more than two miles, and also of depot grounds in said sec. No. 7, T. 19 N., R. 11 W., for the use of said railroad company, their successors and assigns, and the donation by said John C. Short to said first party of the right of way over his lands and lots in the city of Danville aforesaid, and to encourage the extensive working of said mines to the end of obtaining a large transportation of coal therefrom over the said first party's railroad, the said party of the first part hereby agree and bind themselves, their successors and assigns, to furnish to said second party, their heirs and assigns, twenty (20) cars of not less then ten tons each per day during said term of ten years (unless prevented
286 by unavoidable accident or casualty) for the shipment or transportation of coal from said mines, and to haul the same

at the minimum average rate which coal shall be hauled for from time to time by the several railroads in Illinois; provided that said party of the first part shall be required to furnish only as many cars per day as said second party shall require, less than twenty (20); and provided further that said second party shall give to said first party, or to their proper agents or officers, reasonable notice of number of cars required per day. It is also agreed that said first party shall give said second party reasonable notice from time to time of the amount of coal required per day by said first party.

4. It is also agreed that said second party shall have the right and privilege of the extension of this contract for ten years (10) from the 25th day of May, A. D. 1879, at the market rates for coal on said road, so far as the said contract relates to supplying said first party, their successors and assigns, within the territory and be-
287 tween the places above described; and the extension of this contract for said additional ten years, so far as the same relates to the furnishing by said first party to said second party of cars (20 cars per day) for the transportation or shipment of coal as aforesaid.

5. All coal furnished to said first party, their successors and assigns, under this contract during any given month shall be paid for by said first party on or before the 15th day of the month next succeeding.

In testimony whereof the parties have hereunto set their hands and seals the date above written.

THE DANVILLE, URBANA, BLOOMINGTON & PEKIN RAILROAD COMPANY,
By C. R. GRIGGS, *President.*
J. C. SHORT,
[SEAL.] By JOHN C. SHORT.
ABRAHAM SANDUSKY.
ANDREW GUNDY.

288 *Exhibit "B" to foregoing Petition of Eads, Receiver, &c.*

This agreement, made and entered into this 1st day of August, A. D. 1870, by and between the Indianapolis, Bloomington and Western Railway Company, first party, and John C. Short, Abraham Sandusky and Andrew Gundy, partners in trade under the name and firm of John C. Short & Co., of Danville, Illinois, second party:

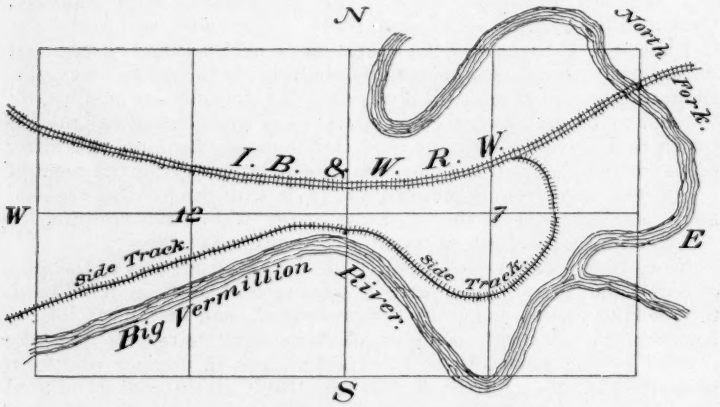
Witnesseth, that whereas, on the 25th day of May, A. D. 1869, the Danville, Urbana, Bloomington and Pekin Railway Company of Illinois entered into contract with said second party for the supply of said second party, their heirs and assigns, to said Danville, Urbana, Bloomington and Pekin Railway Company, its successors and assigns, of all the coal to be used by said Danville, Urbana, Bloomington and Pekin Railway Company, its successors and assigns, in operating their said road for engines, stations, machine and repair shops, and all other purposes of said company, between the cities of Danville

and Bloomington, Illinois, both places inclusive, for the term of ten years from the date thereof, and said Danville, Urbana,
289 Bloomington and Pekin Railroad Company also agreed and bound itself, its successors and assigns, to build and maintain for said second party, their heirs and assigns, certain side tracks or switches from the main line of the railroad of said company to the coal mines of said second party, and also to do and perform various and sundry other matters and things for said second party; and whereas it is desirable on the part of the Indianapolis, Bloomington and Western Railway Company, the successor of said Danville, Urbana, Bloomington and Pekin Railway Company, and said John C. Short & Co., to extend the operation of said contract so that said second party, their heirs and assigns, shall supply to said Indianapolis, Bloomington and Western Railway Co., its successors and assigns, all the coal to be used by said first party, its successors and assigns, between said Danville, Illinois, and Indianapolis, Indiana, the latter place inclusive, for all the purposes of said company for the term of ten years from September 1st, 1870, with the privilege to said
290 second party of the extension or renewal of this contract for a like term of ten years after September 1st, 1880:

Now, therefore, in consideration of the premises, and of the sum of one dollar to said first party by said second party in hand paid, the receipt of which is hereby acknowledged, said first party hereby agrees and binds itself, its successors and assigns, to receive and take of said second party, their heirs and assigns, in manner and form prescribed in said contract of 25th May, 1869, all the coal to be used by said first party, its successors and assigns, during said period of ten years, and the renewal of the same for a further term of ten years as above provided, between said Danville, Illinois, and Indianapolis, Indiana, the latter place inclusive, and to allow and pay to said second party therefor at the same rate and time as in said first contract mentioned, and in general to do and perform for said second party in the same manner in all things as is provided to be done in said contract with said Danville, Urbana, Bloomington and Pekin Railroad Company, dated 25th May, 1869.

291 And in further consideration of the premises, said first party hereby binds itself, its successors and assigns, to build for said second party, their hears and assigns, on the coal lands of said second party, in section No. seven (7), township No. nineteen (19) north, range eleven (11) west, and twelve (12), township No. nineteen (19) north, range twelve (12) west, and thereafter maintain a side track or switch to extend from the main track of said railroad on said section No. seven (7) in an easterly and southerly direction toward the Big Vermillion River, with such grade, if practicable, as will lay said track below the coal bed in said lands where said coal crops cut on the bluffs of said Big Vermillion River, with a south exposure, and to so construct said track, if practicable, so that the same will be below the coal along the bluffs of said river in section No. seven (7), township nineteen (19) north, range eleven (11)

west and twelve (12), township nineteen (19) north, range twelve (12) west, in order that said second party, their heirs and assigns, may be enabled to construct a "dump" or "chute" from the level of the bottom or upper seam in said lands in a horizontal direction
292 to said track, and screen the coal into the cars of said company with—being obliged to elevate said coal. The following diagram is intended to represent the general course of side track or switch from said main line to and along said south exposure or outcrop of said coal:



Said side track to be built by said railway company, its successors and assigns, from said main line east and south to the bluff and exposure on said section seven, and westwardly along said exposure or out-cut crop to the range line between ranges eleven and twelve west, within six months of this date, and the remainder of said side track from said range line westwardly along the south exposure on said section twelve within a reasonable time after reasonable and proper notice given by said second party, their heirs and assigns, of the necessity of its extension.

Said railway company binds itself, its successors and assigns to receive
293 the coal of said second party, their heirs and assigns, intended for shipment to consignees or for the use of said company at the mouth of said mines, and to haul the same therefrom to the depot or station of said company on said lands, free of charge to said second party, their heirs and assigns, and to haul the same to market for said second party, their heirs and assigns, at the lowest minimum rate at which coal is hauled by other railroad companies; and also to furnish to said second party, their heirs and assigns, twenty cars per day for filling for shipment by said second party to consignees, during the existence of this contract or its extension as above provided, in addition to the number heretofore provided for; provided that the business of said second party, their heirs or assigns, shall require that number of

cars, and provided further that it is practicable for said first party, its successors and assigns, to furnish the same from the rolling stock of said company.

294 And the said party of the second part, in consideration of the premises, hereby agree and bind themselves, their heirs and assigns, to furnish to said company, its successors and assigns, all the coal to be used by said company, its successors and assigns, at the price, upon the terms, and in the time and manner hereinbefore mentioned, and to use all reasonable exertions to make sale of their said coal so as to produce the greatest practicable amount of traffic on said road.

The interlineations of the words "if practicable," occurring twice on the third page, were made before signing, and also interlineation on fifth page.

In witness whereof the parties have hereunto set their hands and seals.

INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY COMPANY,

[SEAL.] By C. R. GRIGGS, *President.*

J. C. SHORT & CO.,

J. C. SHORT.

ANDREW GUNDY.

ABRAHAM SANDUSKY.

(Endorsed on said contract:) Approved by Executive Committee Sept. 5th, 1870; Record, page 65; A. P. Lewis, Sec.; J. C. Short & Co.; H. Sandford & Co.

Exhibits "C" & "D."

295 DANVILLE, ILLS., Dec. 1st, 1875.

Indianapolis, Bloomington and Western Railway Co.
Bought of Paris and Danville Co.,
JAMES A. EADS, Receiver.

R. H. CAMAHAN, Superintendent of Mines.

Coal delivered to you at Moss Bank Mines, Danville, Ills., on Sec. 7, T. 19 N., R. 11 W., under the contract made by your Co. with John C. Short & Co., assigned to this company, as follows:

1873.		
Dec. 31.	44,439 tons since Jany. 1, @ $1.96¼	$87,211 53
1874.		
Dec. 1.	36,510½ tons since Jany. 1, @ $2.06⅝	75,524 57
1875.		
Dec. 1.	30,649 tons since Dec. 1, '74, @ $2.00 9/10	63,582 84
	Total	$226,318 94

Payments.

1873.					
Feb'y 28.	Cash from A. P. Lewis, Treas--		6,048	90	
Apr. 30.	" " " " --		5,815	14	
Oct. 11.	" " " " --		1,000	00	
" 25.	" " " " --		3,800	00	
Nov. 8.	" " " " --		1,200	00	
" 15.	" " " " --		1,122	60	
" 29.	" " " " --		3,700	00	
Dec. 10.	Vouchers " " --		220	54	
" 20.	Cash " " " --		3,000	00	
1874.					
Jan. 16.	" " " " -		4,000	00	
Mch. 13.	" " " " --		200	00	
" 31.	" " " " --		5,300	00	
Apl. 18.	" " " " --		6,000	00	
May 16.	" " " " --		1,000	00	
July 16.	" " " " --		1,498	50	296
" "	" " " " --		1,000	00	
Aug. 22.	" " " " --		2,000	00	
Sep. 14.	" " " " --		1,000	00	
" 19.	" " " " --		1,000	00	
" 19.	" " " " --		1,500	00	
Oct. 19.	" " " " --		2,500	00	
	Forward ----------		52,905	68	226,318	94
1874.	Amount forward ----------		52,905	68	226,318	94
Oct. 28.	Freight on iron rails for our Co-		4,799	90	
" 30.	Sundries, Sep. 7 to Oct. 5, '74-		137	60	
Dec. 25.	Freight on iron rails for our Co., to Dec. 1, '74 -- -------		8,977	42	
" 19.	Cash from G. B. Wright, Rec-		1,400	00	
" 25.	" " " " --		2,000	00	
" 25.	Freight " " --		407	54	
1875.					
Feb. 26.	" " " --		10,167	53	
" "	" " " --		4,364	31	
Mch. 9.	Cash " " " --		1,000	00	
" 16.	" " " " --		1,000	00	
" 24.	" " " " -		1,000	00	
" 30.	" " " " --		800	00	
Apl. 13.	" " " " --		400	00	
" 23.	Freight " " --		33	00	
" 30.	Cash " " " --		1,000	00	
May 4.	" " " " --		800	00	
" 11.	" " " " --		800	00	
" 19.	" " " " --		800	00	

May 25.	Cash from G. B. Wright, Rec	800 00		
June 3.	Freight " "	417 06		
" 9.	Cash " " "	800 00		
" 23.	" " " "	400 00		
July 8.	" " " "	400 00		
July 29.	Engine service at mines	855 83		297
" 31.	Cash from G. B. Wright, Rec	629 50		
Aug. 5.	" " " "	606 98		
" 14.	" " " "	577 50		
" "	" " " "	179 25		
Sep. 11.	" " " "	1,973 50		
Oct. 11.	" " " "	4,200 00		
Nov. 12.	" " " "	3,714 00		
" 25.	" " " "	1,321 00		
		109,666 10		
	Balance	116,652 84		
		$226,318 94		226,318 94

Memorandum.

Under the provisions of the contracts hereinbefore referred to, said Indianapolis, Bloomington and Western Railway Company is required to receive said coal at the mouth of the mines, and pay for the same seventy cents (70c.) per ton over and above the cost of placing the same in the cars of said I., B. and W. Ry.

The cost of placing the coal in the cars as aforesaid, during the several years, has been as follows:

For 1873	$1.26¼	per ton.
Add	70c	
Price	1.96¼	per ton.
For 1874	1.36⅝	per ton.
Add	70	
Price	2.06⅝	per ton.
For 1875	1.30 9/10	per ton.
Add	70	
Price	2.00 9/10	per ton.

Respondent answered, putting at issue the averments of the petition. Among other things they averred the expenditure of money to carry out the agreements set forth in the bill. It was also averred

that the lands set apart for depot purposes were never occupied or in possession of respondents. Respondents asked for proper relief. The question of specific performance of the contracts being abandoned averments in the answer, the question of their validity are omitted.

[Answer being lost from the files, this stipulation is taken as a substitute.]

298 Here follows the amended cross-bill of the Farmers' Loan and Trust Company, filed in said Circuit Court of Montgomery county on the day of 18 .

299 In the Circuit Court, of the April Term, 1876.

STATE OF INDIANA, }
Montgomery county. }

To the Hon. Albert D. Thomas, sole judge of said court, in chancery sitting:

First. Humbly complaining, would most respectfully show unto your honor, your orator, the Farmers' Loan and Trust Company, a corporation duly created by, and a citizen of, the State of New York by this its amended cross-bill, that prior to July 12th, 1869, there was a railroad corporation organized and existing under the laws of the State of Indiana, called the Indianapolis, Crawfordsville and Danville Railroad Company, which corporation was vested with full corporate power to locate, construct and operate a line of railroad from Indianapolis, Marion county, Indiana, westwardly through the counties of Hendricks, Boone, Montgomery, Fountain and Warren, to the western boundary line of State of Indiana, and to procure the means to build and operate said line of road said cor-
300 poration was vested with full power to borrow money and to issue bonds secured by a mortgage or deed of trust on the said line of road, with all its appurtenances and appendages, and on the corporate franchises of said company, embracing all the property, real and personal, rights and franchises of said corporation then owned or thereafter to be acquired by it, and with all other capacities and powers usually vested in such corporations under the laws of the State of Indiana, including the power to consolidate its stock and property with any other connecting line of railroad lying in another State. Prior to said July 12th, 1869, the said railroad company had become and was indebted to divers persons and corporations in the sum of one million five hundred thousand dollars, ($1,500,000), evidenced by certain coupon bonds secured by a first mortgage on said entire line of railroad belonging to said railroad corporation, together with its appurtenances, equipments, tolls and franchises, then owned or thereafter to be acquired by it.

Second. And that by virtue of an act of the general assembly of the State of Illinois, called the Danville, Urbana, Bloom-
301 ington and Pekin Railroad Company, which said corporation, by virtue of said enactment and organization thereunder, was en-

dowed with full power to locate, construct and operate a line of railroad from Pekin, in Tazwell county, Illinois, eastwardly through Bloomington, Mt. Pleasant, Champaign and Danville, to the eastern boundary line of the State of Illinois, and in order to raise the money necessary for the building, equipping, operating and maintaining the said line of railroad, the said last named corporation was authorized to issue and dispose of its bonds, bearing interest not to exceed ten per cent. per annum, and secure the payment of the same by a mortgage or deed of trust on all its corporate property and franchises then owned or thereafter to be acquired by it; and by said charter and the general laws of the State of Illinois, the said last named corporation was duly authorized to consolidate its stock and property with any connecting line of railroad in another State.

That said last named corporation was duly organized under said charter, and proceeded to *to* construct said road thereunder.

Third. That the said two last mentioned lines of railroad are
302 connecting lines, and form one continuous line of railroad from the city of Indianapolis, in the State of Indiana, to the city of Pekin, in the State of Illinois.

Fourth. That in order to borrow money for the purpose of building, equipping, and maintaining its line of road, the said Danville, Urbana and Pekin Railroad Company, it being thereto fully authorized by its charter and laws of the State of Illinois, on the 1st day of April, 1869, did duly sign, seal, execute, acknowledge, and deliver to your orator its certain trust deed or mortgage, a copy of which, together with its acknowledgment, is herewith filed and marked Exhibit "A," and which your orator prays may be made a part of this your orator's bill of complaint, to which your orator craves leave to refer for the full contents thereof, by which said mortgage or deed of trust the last mentioned corporation conveyed to your orator all and singular its line of railroad then constructed or authorized by law to be constructed, including all rights of way, depot grounds, tracks, bridges, viaducts, culverts, fences, and other structures, depots, engine houses, and other buildings, and all machine shops, rolling stock and machinery, and all real and personal property then owned or held or thereafter to be acquired by
303 the said last named railroad company, for use in connection with the said line of railroad, together with franchises connected with or relating to the construction, maintenance, and operation and use of said railroad, and also the tolls, income, and profits realized or to be realized from the said property, the said conveyance being in trust upon certain conditions therein specified, to secure the payment of two thousand (2,000) bonds for the sum of one thousand dollars ($1,000) each, bearing interest at the rate of seven per cent. per annum, payable semi-annually, said principal and interest being payable in gold coin to your orator or bearer in the city of New York, the principal of said bonds being due and payable to your orator or bearer on the 1st day of April, 1909, and bearing date of the 1st day of April, 1869, and said interest being payable on the

first days of October and April of each and every year, which said mortgage or deed of trust was duly filed for record in the various counties through which the said line of railroad is located, on the dates following, viz.: In the county of Champaign on the 5th day of May, 1869; in the county of Vermillion on the 5th day
304 of May, 1869; in the county of Piatt on the 5th day of May, 1869; and in the county of Dewitt on the 6th day of May, 1869; in the county of McLean on the 5th day of May, 1869; and in the county of Tazwell on the said 6th day of May, 1869.

Fifth. That by the second article of said mortgage or deed of trust it is provided, among other things, as follows: "That in case, "first, default shall be made in the payment of any interest on any "of the said bonds according to the tenor thereof, or of the coupons "thereto annexed, or in the payment of any part of the principal of "said bonds, or any of them, when the same shall become due, and "that any such default shall continue for the period of six months; "or, secondly, in case default should be made in any payment by "these presents required to be made into the sinking fund herein-"after mentioned, and that such default shall continue for the period "of six months,"—in either of such cases it should be lawful for your orator, or its attorneys or agents, to enter into and upon all the property conveyed thereby, and to have and hold and to
305 use the same, operating the same by its superintendents, agents, or servants, and conducting the business thereof, and from time to time to make all repairs and replacements and such useful alterations, additions and improvements thereto as might seem to be judicious; to collect and receive all tolls, freight, incomes, rents, issues, and profits of the said mortgaged estate, and after deducting all necessary and proper expenses and outlays, and just compensation for orator's own services and for the services of its attorneys and counsel employed in and about said business, to apply the surplus, if any, to the payment of the interest on the said bonds; and if any surplus remained after the payment of all interest then due, to apply such surplus upon the principal of all said bonds as then remained unpaid pro rata, and if any surplus remained after the payment of the said entire mortgage debt, to pay the same over to said railroad company; to which said clause of said mortgage your orator begs to refer for the full contents thereof.

Sixth. That by article third of said indenture of mortgage it is provided, among other things, in substance as follows: That in case
306 default should be made as aforesaid, and continue as aforesaid, it should be lawful for said trustee, after entry as aforesaid, or other entry, or without entry, personally or by its attorneys or agents, to sell and dispose of all and singular said mortgaged estate and property at public auction in the city of New York, or at the city of Urbana, or at such other place within the State of Illinois as the said trustee might select, and at such time as the said trustee might appoint, after having advertised such sale for the time and in the manner in said third article provided, and make conveyance in pursu-

ance thereof, and after deducting from the proceeds of such sale just allowances for all expenses thereof, including attorneys' and counsel fees, and other expenses and advances or liabilities which may have been made or incurred by the said trustee in respect to the said mortgaged estate and property, or in operating and maintaining the same, or in managing the business thereof while in its possession, and all payments which may have been made for taxes or assessments on the same as well as compensation for its own services, to apply the residue to the payment of such bonds as may be at
307 the time unpaid, whether the same shall have previously become due or not, and the interest which at that time shall have accrued on the said principal, and be unpaid, ratably; and to which article your orator here craves leave to refer for the full contents thereof.

Seventh. That by article fifth of said indenture of mortgage it is provided in substance as follows: In case default shall be made in the payment of any half-year's interest on any of the said bonds, at the time and in the manner in the coupon issued therewith provided, the said coupon having been presented, and the payment of the interest therein specified having been demanded, and such default shall have continued for the period of six months after the said coupon shall have become due and been demanded as aforesaid, then the principal of all of said bonds should, at the election of the trustee, become immediately due and payable; to which said fifth article of said mortgage your orator begs to refer for the full contents thereof.

Eighth. That by article seventh of said mortgage it is, among other things, provided in substance as follows: That on the 1st day of April, 1873, and on the 1st day of April in each succeeding
308 year thereafter, for the further security and ultimate redemption of the bonds intended to be secured thereby, and for the creation of a sinking fund for that purpose, the said grantor should pay to your orator the full sum of ten thousand dollars ($10,000), to be used in the purchase of the bonds secured thereby in the manner in and by said seventh article provided; to which your orator also refers for the full contents thereof.

Ninth. That by the eighth article of said mortgage it is provided, among other things, in substance as follows: That if default should be made in the payment of the interest or principal of any of said bonds, as above specified, or as to any payment into the sinking fund as above set forth, upon the requisition, in writing, signed by the holder or holders of not less than one hundred of said bonds, and proper indemnification by such holder or holders to the trustee against the costs and expenses to be incurred, it should be the duty of the said trustee to enforce the rights of the bondholders under the said indenture by entry, sale, or suit or suits at law or in equity, as the trustee, being advised by counsel learned in the law,
309 should deem most expedient for the interest of the holders of said bonds; and to which said eighth article your orator begs to refer for the full contents thereof.

Tenth. That by article tenth of said mortgage it is provided, among other things, in substance as follows:

That whenever, and as often as the said grantor should thereafter acquire any lands, or any equipment, or any other property or things, of whatever name or nature, for use in connection with the said railroad, or of any part of either thereof, or of any other railroad which the said company was authorized by law to construct, or should acquire any other property, rights, franchises, or things whatsoever, the said grantor should hold such after-acquired property subject to the trusts of said indenture, and should make such other and further assurance of the title, from time to time, as should be requested; and to which tenth article your orator begs to refer for the entire contents thereof.

Eleventh. Your orator further shows unto your honor that the said two thousand bonds described in the said last-named
310 indenture were, as your orator is informed and verily believes, duly issued, signed and sealed by said last-named railroad company, and put upon the open market and sold to raise funds with which to build, operate, and equip said line of railroad, and that they were each purchased by the holders thereof in good faith for value, and that the entire principal of said two thousand bonds, with large arrearages of past-due interest thereon, are a valid outstanding debt against said last-named corporation, and constitute a valid paramount first lien on all the property and effects conveyed or intended to be conveyed by said indenture of mortgage last above described.

Twelfth. Your orator would further show unto your honor that default was made in the payment of the semi-annual installment of interest on said bonds which fell due on the 1st day of October, 1874, and upon every installment of interest falling due subsequent to the date last aforesaid, and that said defaults have continued hitherto, and still continue; that demand was duly made for the pay-
311 ment of a large amount of said coupons falling due on said 1st day of October, 1874, on the day of their maturity, in accordance with the terms of said indenture, and upon such demand payment was refused and default made, which said default has continued hitherto, and still does continue.

Thirteenth. Your orator would further show unto your honor that by virtue of the said default in payment, and of the request as last aforesaid, by virtue of the power vested in your orator by said indenture of mortgage, it has declared, and does hereby declare, the entire principal of said two thousand bonds to be now due and payable.

Fifteenth. Your orator further shows unto your honor that it is advised by counsel learned in the law, and verily believes, that the entire principal of said two thousand bonds, with said several installments of interest falling due thereon on the 1st day of October, 1874, and on the 1st day of April, 1875, and on the 1st day of October, 1875, with the arrearages of interest on said past-due installments, together accruing since the 1st day of October, 1875, are now due

and payable to your orator, and are a valid subsisting first lien
312 upon all the property conveyed, or intended to be conveyed, by said indenture of mortgage, and your orator is now entitled in equity to foreclose the same.

Sixteenth. Your orator further shows unto your honor that default has been made in the payment of said grantor, in the said indenture of mortgage to your orator, of the ten thousand dollars required by the said indenture to be paid on the 1st day of April, 1873, and on the first day of April of each succeeding year thereafter, for the purpose of creating a sinking fund, no payment having ever been made to your orator for that purpose, by reason whereof your orator has a right to, and does hereby, declare said mortgage debt due and payable, according to the terms and conditions of said mortgage, and has a right to foreclose said mortgage for the payment of said entire mortgage debt.

Seventeenth. Your orator would further show unto your honor that by articles of consolidation duly entered into by and between the said Danville, Urbana, Bloomington and Pekin Railway Company of Illinois, and the said Indianapolis, Crawfordsville and
313 Danville Railroad Company of Indiana, which bear date the twelfth day of July, 1869, and which were duly ratified by the boards of directors and stockholders of both said corporations, the said two corporations being thereto duly authorized by their respective charters and the laws of the States of Illinois and Indiana, consolidated their stock and property, and became one corporation under the name and style of the Indianapolis, Bloomington and Western Railway Company, by means of which said consolidation, and by virtue of the laws aforesaid in that behalf, the said new corporation became vested with all and singular the property, estate, privileges, and franchises of the said two last named corporations, and subject to all the debts, liabilities, and obligations of said two constituent corporations, a copy of which said articles of consolidation is filed herewith, marked Exhibit "B," and prayed to be made a part of this your orator's bill, and to which reference is made for full contents thereof.

Eighteenth. Your orator further shows that after the said consolidation, for the purpose of retiring the original issue of bonds
314 made by the said Indianapolis, Crawfordsville and Danville Railroad Company, amounting to $1,500,000, and also for the purpose of retiring the issue of two millions of bonds put in circulation by the Danville, Urbana, Bloomington and Pekin Railroad Company aforesaid, and for the further purpose of borrowing money to provide new equipment and machinery for the proper operation of the consolidated line, the said Indianapolis, Bloomington and Western Railway Company, being thereto duly authorized, did duly make, sign, seal, and acknowledge, and deliver to your orator an indenture of mortgage or deed of trust, which said deed bears date on the 1st day of October, 1869, but was in fact not executed until the 20th day of October, 1869, whereby the said con-

solidated corporation conveyed to your orator, in consideration of the sum of one dollar and the trusts expressed in said instrument, its entire line of railroad, lying, being, and extending from its terminus in the city of Indianapolis, in the State of Indiana, through Crawfordsville, in the last mentioned State, westward to the
315 State of Illinois, through Danville, Urbana and Bloomington, in said State of Illinois, farther westward to Pekin, altogether being in length of railway about two hundred and ten miles, about ninety-three miles thereof being in the State of Indiana, and about one hundred and seventeen miles thereof in the State of Illinois, with all its franchises, equipments, property, lands, tenements, buildings, fixtures, machinery, goods and chattels used in or connected with the operation of the said railway, including all rents, reservations and reversions of every nature and kind whatever, including all the property between the said terminal points which said grantor then had, owned and possessed, or might thereafter acquire, which said indenture of mortgage was made in trust to secure an issue of five thousand bonds of one thousand dollars each, numbered respectively from one to five thousand, bearing date the 1st day of October, 1869, and payable to William Dennison or bearer, in the city of New York, on the 1st day of October, 1909, the principal and interest thereof payable in gold, free of government tax, with
316 interest warrants thereto attached, signed by the secretary, for the payment of interest thereon at the rate of seven per cent. per annum in gold, payable in the city of New York on the successive 1st days of April and October of each year.

Nineteenth. Your orator would further show unto your honor that it is provided, among other things, in the second article of said indenture of mortgage in substance as follows: That the said grantor should, from time to time, make such other and further assurances of title, and do all such other acts as often as it might be lawfully required, in order to assure and perfect title in your orator to all the property and effects conveyed or intended to be conveyed to your orator by said indenture.

Twentieth. Your orator would further *sow* unto your honor that it is provided, among other things, in the fifth article of said indenture in substance as follows:

That in case default should be made in the payment of any interest on said bonds according to the coupons thereto annexed, or in case default should be made in the payment of the principal
317 of said bonds, or any of them, when *the* should become due, without the consent of the holder of said bond upon which said default should occur, the same grantor should—within six months after such default should occur—the same default still continuing, on the demand of said trustee, surrender to such trustee all said mortgaged property and effects, together with all the records, books, accounts and money belonging to said company, and all management and control thereof, and all the expenses of taking, managing, holding and operating said property, should be paid from the income

and profits thereof, and, in case of sale, out of the proceeds of sale, provided no such demand for possession should be made by such trustee until required by the holders of at least one-half of the issue of said bonds which should then be unpaid and outstanding.

Twenty-first. Your orator would further show unto you honor that it is provided in and by the sixth article of said indenture, among other things, as follows:

That in case default should be made as aforesaid, and con-
318 tinue as aforesaid, it should be lawful for the said trustee, after entry as aforesaid, or other entry, or without entry, personsonally or by agents or attorneys, to sell and dispose of, to the highest bidder, all and singular the premises and property conveyed by said indenture, or intended to be conveyed thereby, as an entirety, at public auction in the city of Indianapolis, Indiana, at such time as said trustee might appoint, first having demanded of the said grantor full payment of all money then in default, after having advertised such sale for the time and the manner required in said sixth article, and upon such sale to convey to the purchaser thereof perfect title to said property, and after deducting from the proceeds of such sale all expenses of the sale and conveyance, and all advances and liabilities which may have been made or incurred by said trustee in the discharge of said trust in and about said property, and all payments for taxes, assessments and liens prior to the said last mentioned indenture on said premises, or any part thereof, as well as reasonable compensation to said trustee for its said services,
319 to apply the residue to the payment of the principal and interest of said mortgaged debt, in the manner provided in and by said sixth article of said indenture.

Twenty-second. Your orator would further show unto your honor that it is provided in and by the eighth article of said indenture, among other things, in substance as follows:

That if default should be made in the payment of any half-year interest on any of said bonds, and the warrant or coupon for such interest shall have been presented and its payment demanded, and such default shall have continued six months after such demand, without the consent of the holder of such coupon or bond, then the principal of all said bonds secured by said indenture should be and become immediately due and payable, anything in such bonds to the contrary notwithstanding, and the trustee might so declare the same and notify the said grantor thereof, and upon the written request of the holders of a majority of said then outstanding bonds, said
320 trustee should proceed to collect both principal and interest of all such bonds outstanding by foreclosure and sale of said property or otherwise, as in and by the said indenture provided.

Twenty-third. Your orator would further show unto your honor that it is provided in and by the ninth article of the said indenture, among other things, in substance as follows:

That the said grantor would create and make a sinking fund for the redemption of said issue of bonds which said indenture was given

to secure, by setting aside and depositing with three commissioners a sum of twenty-five thousand dollars annually, the first of such payments to be made on the 1st day of October, 1872, to be used for the redemption of said bonds, as in and by said article provided, which your orator upon information and belief hereby charges has never been done.

Twenty-fourth. Your orator herewith files a copy of said last mentioned indenture, marked Exhibit "C," and prays that the same may be taken as part and parcel of this its bill of complaint, and prays leave to refer to the same, and to each and every article
321 thereof, for the full contents of the same.

Twenty-fifth. Your orator would further show unto your honor that the said last mentioned railroad company issued and put upon the market and sold in due course of trade for value, or exchanged, as hereinafter mentioned, three thousand of said five thousand bonds which said last mentioned indenture was given to secure, and said three thousand bonds so sold, with large arrearages of interest passed due and unpaid thereon, are a valid and subsisting debt against said consolidated corporation; and the said remaining two thousand of said issue of bonds are now in the hands of said trustee, never having been in any way issued, negotiated, sold, or otherwise disposed of, and said two thousand bonds are therefore no debt against said corporation.

Twenty-sixth. Your orator would further *sow* unto your honor that with fifteen hundred of the said three thousand bonds mentioned in the last paragraph, the said Indianapolis, Bloomington and Western Railway Company took up and retired the one million five hundred thousand dollars of bonds issued by the said Indian-
322 apolis, Crawfordsville and Danville Railroad Company aforesaid, so that the same ceased to be any debt of said corporation, or a lien upon any part of its property, and that said three thousand bonds of said issue of five thousand bonds aforesaid, together with the accrued interest thereon, are now a valid subsisting and first lien upon all that portion of the property of the consolidated company in the State of Indiana, and a valid subsisting second lien on all its property in the State of Illinois, conveyed by said indenture to your orator, and that the said mortgage made by the said Indianapolis, Crawfordsville and Danville Railroad Company has been duly satisfied of record.

Twenty-seventh. Your orator further shows unto your honor that default was made in the payment of the installment of interest falling due on the 1st day of October, 1874, on said issue of bonds made by the said Indianapolis, Bloomington and Western Railway Company as aforesaid, and that demand was duly made for payment of a large number of said coupons of said issue at the
323 office of said railway company in the city of New York, on the 1st day of October, 1874, and on such demand payment was refused and default made, which has continued hitherto and still does continue, and that the several installments of interest falling

due on said issue, viz, on the 1st day of October, 1874, and on the 1st day of April, 1875, and on the 1st day of October, 1875, remain unpaid, and that said default was made and continued without the consent of the holders of said bonds and coupons.

Twenty-eighth. Your orator would further show unto your honor that demand in writing was made on said trustee on the 13th day of March, 1876, by the holders of more than one-half of said three thousand bonds to proceed to foreclose the said mortgage given to secure the same, and to collect the entire principal of said entire three thousand bonds, together with all the arrearages of interest due thereon, is now due and payable, and that it is the right and duty of said trustee to proceed to foreclose said indenture of mortgage given to secure the same, and sell said mortgaged property for the payment and satisfaction thereof.

324 Twenty-ninth. Your orator would further represent that said last mentioned mortgage was duly filed for record in the various counties through which said road is located on the following dates, viz: In the county of Marion, State of Indiana, on the 25th day of October, 1869; in Boon county, Indiana, on same day; in Hendricks county, Indiana, on the 1st day of November, 1869; in Montgomery county, Indiana, on the 2d day of November, 1869; in Franklin county, Indiana, on the 3d day of November, 1869; in Warren county, Indiana, on the 30th day of October, 1869; and in Vermillion county, Indiana, November 2d, 1869; and in Tazwell county, Illinois, on the 27th day of October, 1869; in McLean county, Illinois, on the 28th day of October, 1869; in De Witt county, Illinois, on the 29th day of October, 1869; in Vermillion county, Illinois, on the 30th day of October, 1869; in Piatt county, Illinois, on the 29th day of October, 1869; and in the county of Champaign, Illinois, on the 4th day of November, 1869; and that said last mentioned instrument bears date on the 1st day of October, 1869; yet the same was not acknowledged by the said railway company

325 until the 12th day of October, 1869, and was not executed and acknowledged by the said trustee until the 20th day of October, 1869, wherefore your orator avers that the same was not in fact or in law executed until the 20th day of October, 1869.

Thirtieth. Your orator would further represent unto your honor that afterwards, to wit, on the day of October, 1870, said Indianapolis, Bloomington and Western Railway Company, being thereunto duly authorized by resolution of its board of directors, duly made, executed, signed, sealed, acknowledged, and delivered to William Dennison and Benjamin E. Smith, citizens, then and now, of the State of Ohio, a certain other indenture of mortgage or deed of trust, commonly called a second mortgage, by which said indenture the said Indianapolis, Bloomington and Western Railway Company, in consideration of one dollar and of the trusts in said indenture expressed, conveyed to said Dennison and Smith all and singular the entire railway of the said grantor lying, being, and extending from its terminus at the city of Indianapolis, State of In-

diana, through Crawfordsville, in said last mentioned State,
326 westward to the State of Illinois, and through Danville, Urbana and Bloomington, in said State of Illinois, farther west to Pekin, altogether being in length of railway track about two hundred and fourteen miles, about eighty-three miles thereof being in the State of Indiana, and about one hundred and thirty-one miles thereof in the State of Illinois, with all its franchises, equipments, property, lands, tenements, buildings, fixtures, machinery, goods and chattels used in, or connected with, the operation of said railway, including all rents, reservations, and reversions of every nature and kind whatever, including all the property between said terminal points which the said grantor then had, owned and possessed, or might thereafter acquire, which said indenture of mortgage was duly filed for record, as your orator is informed and believes, in the various counties through which said railroad is located, on the following dates, to wit: In the county of Montgomery, Indiana, on the 15th day of October, 1870; in Hendricks county, Indiana, on the 17th day of October, 1870; in Marion county, Indiana, on the 17th day of October, 1870; in Boon county, Indiana, on the 18th
327 day of October, 1870; in Fountain county, Indiana, on the 28th day of October, 1870, and in Warren county, Indiana, on the 28th day of October, 1870, and in the various counties in the State of Illinois shortly after the execution thereof, but the precise dates thereof are unknown to your orator.

Thirty first. Your orator further shows unto your honor that said last mentioned indenture bears date upon its face the first day of October, 1870, but was not acknowledged by the grantor until the 10th day of October, 1870, and by the grantee on the 11th day of October, 1870, and, as your orator believes, was not finally executed and delivered until said last mentioned date, in contemplation of law and equity.

Thirty-second. Your orator would further show unto your honor that said last mentioned indenture was made in trust to secure an issue of one million five hundred thousand dollars of second mortgage bonds of the said Indianapolis, Bloomington and Western Railway Company, the principal and interest of said bonds payable in the city of New York, the principal being payable twenty years from their
328 date, and to bear interest at the rate of eight per cent. per annum, payable semi-annually, on the first days of January and July of each and every year, provided the first installment of interest should not be payable until the first day of July, 1871.

Thirty-third. Your orator would further show unto your honor that it is provided in and by the second article of said indenture, among other things, in substance as follows:

That for the better assuring and confirming the title of the said trustees to the property conveyed and intended to be conveyed by said indenture, and any property or rights thereafter accruing to or acquired by said grantor appurtenant to said railway, the said grantor was, from time to time, to do such acts and make such further con-

veyances and assurances in law as said trustees might be advised was necessary to carry out the object of said parties to the said indenture.

Thirty-fourth. Your orator would further show unto your honor that in and by the fifth article of said indenture it is provided, among other things, in substance as follows:

That in case default should be made in the payment of any
329 interest on the bonds secured by the last mentioned indenture according to the tenor of the coupons thereto annexed, or in case of default of the payment of the principal of any of said bonds when the same should become due, without the consent of the holder of said bond when such default should occur, said grantor should, within six months after such default occurred, the same default still continuing, deliver to said grantee the actual possession of the said granted premises, together with all the books, records, papers, accounts and money of said grantor, and all management and control thereof, and all the expenses of taking, holding, managing and operating said property, if possession thereof be so taken, should be paid from the incomes and profits thereof, or, in case of sale, from the proceeds of such sale, and apply the residue of said proceeds as is in and by said article provided; provided that no such demand for possession should be made by said trustees until they should be required so to do by the holders of at least one-half of said issue of said bonds then outstanding and unpaid.

Thirty-fifth. Your orator would further show unto your
330 honor that by the sixth article of said indenture it is, among other things, provided in substance as follows:

That in case default should be made as aforesaid, and continue as aforesaid, it should be lawful for the said trustees, after entry or without entry, to sell said mortgaged property at public auction in the city of Chicago, in the State of Illinois, at such time as said trustees might appoint, they having first demanded of the said grantor full payment of all money then in default, first having advertised the time and place of such sale as is in and by the said sixth section provided, and upon the receipt of the purchase-money to convey said property to the purchaser, and after deducting from the proceeds of such sale the expenses of the sale and conveyance, and all advances and liabilities which might have been incurred by said trustees in operating, controlling, and maintaining the said railway and property, and in managing its business and affairs, and all payments of taxes, charges, assessments, and liens, prior to the lien of the said last mentioned indenture on said premises or any part thereof, as well as reasonable compensation for the services of said trustees, to
331 apply the residue in the payment of the interest and principal of said issue of bonds secured by said indenture in the manner provided in said sixth article.

Thirty-sixth. Your orator would further show that in and by the eighth article of said indenture last above described it is, among other things, in substance provided as follows:

That if default should be made in the payment of any half-year's interest on any of said bonds, and the warrant or coupon for such interest should have been presented and its payment demanded, and said default should continue for six months after such demand without the consent of the holder of such coupon or bond, then the principal of all said bonds secured by said last mentioned indenture should become immediately due and payable, anything in said bonds to the contrary notwithstanding, and the said trustees might so declare the same and notify the said grantor thereof, and upon the written request of the holders of a majority of said bonds then outstanding said trustees should proceed to collect both principal and interest
332 of all such outstanding bonds by foreclosure and sale of said property, or otherwise, as is in and by said last mentioned indenture provided.

Thirty-seventh. Your orator herewith files a copy of said last mentioned indenture, marked Exhibit "D," and prays that the same may be taken as part and parcel of this its bill of complaint, and here craves leave to refer to the same, and to each and every section thereof, for the full contents of the same.

Thirty-eighth. Your orator further shows unto your honor that it is informed and believes, and upon such information and belief charges the fact to be, that the entire series of bonds said last mentioned indenture was given to secure were issued and put upon the market and negotiated for value in due course of business, and that the same, with large arrearages of unpaid interest thereon, are now a valid outstanding debt of said Indianapolis, Bloomington and Western Railway Company, and the same is a subsisting valid second lien on all the property and effects of said railway company in the
333 State of Indiana, and is a subsisting valid third lien on all the property and effects in the State of Illinois of said railway company as described in said mortgage, the lien of said last mentioned indenture being junior and subject to the liens of the said two indentures made to your orator as hereinbefore set forth.

Thirty-ninth. Your orator would further represent that it is informed and believes, and upon such information and belief charges the fact to be, that default was made in the payment of the installment of interest accruing on the said last issue of bonds, and falling due on the 1st day of July, 1874, and that demand was duly made for the payment of certain of said coupons falling due on that day, at the office of said railway company, in the city of New York, in July and August, 1874, and upon such demand payment was then and there refused and default made, which said default has continued thence hitherto without the consent of the holder or holders of said coupons or bonds, and that payment has not been made
334 of the installments of interest accruing on said last series of bonds since said 1st day of July, 1874.

Fortieth. Your orator further shows unto your honor that it is informed and believes, and upon such information and belief charges the truth to be, that on or about the first of November, 1874, said

last mentioned railway company owed a large floating debt, and that for the payment of a great portion thereof, to wit, about half a million of dollars, the said Benjamin E. Smith, who was then and there also a director and the president of the said last mentioned railway company, was security and endorser in his individual capacity, and as such bent his energies and influence to subserve the interest of such floating debt creditors, and secure the adjustment thereof to the prejudice of the priorities and rights of the mortgage bond creditors as aforesaid, and in furtherance of his said plan and determination said Smith did, on or about the 16th day of November, 1874, and but two days prior to the appointment of the receiver in this cause, fraudulently (and without the authority or knowledge
335 of board of directors of said company, except a minority, who were also interested in such floating debt) attempt to convey and transfer to one Joseph T. Thomas, of Philadelphia, Pennsylvania, by chattel mortgage, all the rolling stock, machinery, and chattel property of said railway company, upon which, as your orator claims, a prior or first lien was created and made by and in favor of said mortgages described in the preceding paragraphs in this your orator's bill. That said chattel mortgage was executed without authority of law; that the grantee therein named was not present at the execution of the same at the time, nor was the same delivered to him prior to the record thereof, nor was any property described in said mortgage delivered to said grantee therein, under or by virtue thereof, or otherwise; that said mortgage was an attempted incumbrance upon what is claimed to be the chattel property of said company, in order to defeat what had been previously conceded to have been the prior rights and equities of said mortgage bondholders; that a large portion of the debts attempted to be secured
336 by said chattel mortgage were past due at the time of the execution thereof, and that but few of the general creditors holding said floating debt claims were cognizant of the execution or intended execution thereof, as your orator is informed and believes said so-called chattel mortgage is fraudulent and void, and is an apparent cloud upon the superior claim and title of your orator to the said mortgaged property, a copy of which chattel mortgage is herewith filed, and for greater certainty reference had thereto, marked Exhibit "E."

Forty-first. Your orator further shows that it has been informed and verily believes, and so charges the truth to be, that the said William Dennison, one of the original trustees in said indenture so made to said Dennison and Smith as above described, has recently resigned his said trust, and that the said Joseph T. Thomas has been appointed and is now acting as such trustee in his stead.

Forty-second. Your orator further shows that it is informed and believes, and so charges the fact to be, that the said Indianapolis,
337 Bloomington and Western Railway Company is wholly insolvent, and that its entire property and effects are wholly inadequate to pay the amounts due and owing under said several

indentures to your orator, and to the said Dennison and Smith, executed as above described.

Forty-third. Your orator would further show unto your honor that it is informed and believes, and so charges the truth to be, that the following named persons each claim some interest in the property covered by said mortgages made to said trustees as above set forth, as judgment creditors of the said Indianapolis, Bloomington and Western Railway Company; but your orator avers that whatever interest said judgment creditors, or any of them, may have in and to said property, the same is junior, inferior and subordinate to the rights of said trustees in the three indentures first above described, that is to say: Henry Jones, Francis Milligan, E. S. McBroom, Francis M. Black, John B. Lee, William Lyon, William Reed, Frank
338 Reed, William H. Brown, John Ferguson, William P. Rainey, Samuel B. Morgan, Samuel Walker, Albert M. Burke, Anthony Kostanzer, Fergison McIntyre, Valentine Miller, Richard R. Graves, John R. Thomas, James H. Tomlinson, Nancy Tomlinson, John Miley, Joshua T. Anthony, Harry Taylor, Indianapolis Chair Company, Samuel D. Smith, Ann M. Smith, William A. Penrey, William McClelland, Jesse Palmer, Archelaus Bailey, John Bailey, Thomas Elder, and John R. Current.

And your orator shows that Malcom C. Turner, James Turner, Thomas E. Turner, Robert Turner, Archibald Turner, George M. Turner and Joseph S. Decker, copartners, doing business under the name, firm and style of Turner Brothers, who were plaintiffs in the original suit, filed their bill as holders of bonds secured by the mortgages in this bill hereinbefore mentioned; that the said original bill was filed without any notice to or demand upon your orator to take proceedings as trustee under said mortgage; and your orator further shows that the said original complainants, the Turner
339 Brothers, are merely nominal and not necessary parties to this proceeding, and are only made defendants by reason of their being plaintiffs in the original action, and that their interest as bondholders, if any, is protected by the trustees under the mortgages securing the same.

Wherefore your orator prays that each of the above-named parties and the said Indianapolis, Bloomington and Western Railway Company, Benjamin E. Smith, Joseph T. Thomas and William Dennison, be made defendants hereto, and that such of them as are not already in court be duly summoned by proper process to appear and answer this bill, but not under oath, their oaths being expressly waived according to the statute in such case made and provided.

Forty-fourth. Your orator further shows that at and before the time of the making and delivery of the said two indentures made by the said Danville, Urbana, Bloomington and Pekin Railroad Company, and the said Indianapolis, Bloomington and Western Railway Company, to your orator, the Farmers' Loan and Trust Company, it was and ever since has been, and now is, duly authorized by
340 law to accept and execute such trusts as are imposed upon your orator by said indenture.

Forty-fifth. Your orator further shows that by reason of the insolvency of said Indianapolis, Bloomington and Western Railway Company, and by reason of the entire property and effects thereof being wholly inadequate to pay the amounts due under the said two indentures of mortgage given to your orator as aforesaid, your orator, as it is advised by counsel, is entitled to have a receiver appointed to take possession of and administer said mortgaged property under the control of this honorable court, until a foreclosure can be had of said several mortgages and sale thereunder. Wherefore your orator prays that your honor will continue the receivership already established in this cause for the benefit of your orator, as well as for all other persons or corporations interested in said mortgaged property, and that all bonds accumulating in the hands of the receiver be held subject to the final decree herein, and for a decree that said mortgage to your orator, made by the Danville, Urbana, Bloomington and Pekin Railroad Company, as above de-
341 scribed, be decreed to be a valid and first lien on all the property and effects of said railroad company on its main line, from Pekin, in the State of Illinois, eastwardly to the line of the State of Indiana, and to all, or at least an equitable proportion of all, the rolling stock and personal property to the said Indianapolis, Bloomington and Western Railway Company, apportioned according to its mileage and relative amount of business, and that the amount due and unpaid on your orator's said mortgage be ascertained and adjusted, and also for a decree finding the amount due on said consolidated mortgage described in the bill, made by the Indianapolis, Bloomington and Western Railway Company to this complainant, and finding the just proportion of said amount of such indebtedness that shall be apportioned to that part of the consolidated line in the State of Illinois. Your orator here respectfully asks the court to adjust the equities as between these series of bondholders, represented by this complainant as trustee, as to any rolling stock or bet-
terments that may have been purchased for the consolidated
342 line out of the proceeds of the sale of said $1,500,000 of bonds issued under said consolidated mortgage, and after the amounts be so found, to apportion and adjust the same on your orator's two mortgages.

Forty-sixth. Your orator says that it is trustee as aforesaid, and the bondholders under said two mortgages for whom it is trustee have a clear equitable right, and as they insist a clear legal right, whereof they cannot be deprived by said railroad company, or by any one claiming through or under it by title subsequent to the said mortgages, to enforce their said mortgages separately and specifically upon all and singular the property whereon the said two mortgages constitute the first lien respectively, apart from and disconnected with any property subsequently annexed to it, and whereon it may be held or adjudged that others have a lien prior or concurrent with the liens of this complainant, and that they are so entitled in so enforcing their said mortgages to have the mortgaged property

whereon this is the first lien sold separately for the satisfaction
343 of their mortgaged debts alone, and not of that debt or debts due to other , and in such manner that the bondholders having such first mortgage liens thereon, in case other bidders shall not offer a price sufficient to pay in full their mortgage debts, may, at their own option, bid in or purchase such property whereon they have the first lien, in order to save loss of their mortgaged debts without being compelled to purchase in connection therewith any property subsequently acquired by the mortgagors, and whereon it may be adjudged that the defendants herein, or others, have prior liens.

And your orator further prays for a decree that unless the defendants herein, or some of them, pay the amount so found to be due by the end of a short day to be fixed by the court, that said property be sold without redemption, and the proceeds of said sale be paid to your orator in trust for the payment of said bonds issued under said first mortgage and said second or consolidated mortgages, as the decree may direct, and your honor will ascertain the amount due upon said indenture made to the said Dennison and Smith, trustees,
344 above described, and if in case of sale there should be a surplus over and above enough to pay the amount due on the said two indentures made to your orator, and all necessary and proper expenses and costs of this litigation and sale and execution of said trust by your orator, that the surplus be paid to the holders of the bonds secured by the said indenture made to the said Dennison and Smith, trustees, *pro rata*, and that on such sale all right, title, equity of redemption or lien, or pretended lien, of all the said defendants in and to said mortgaged property or any part thereof, be forever barred, and that the purchaser be decreed to have a valid and perfect title to the property so sold, free and clear from all liens or claims of any kind or nature of the said defendants, or either or any of them, or of any person or persons, or bodies politic or corporate, claiming or to claim the same or any part thereof by, through, or under them or either or any of them. And if on said sale there should not be enough to pay said bonds and all costs of this proceeding, that the receiver be ordered to pay over to your orator all funds in
345 his hands in trust for the payment of said bonds, with all unpaid coupons that have or shall mature before said sale, as your orator is now, by the terms and conditions of said mortgage, and by reason of the default aforesaid in payment of the sinking fund, entitled to all the tolls, incomes, receipts, and profits of said railroad, and it is entitled, as it is advised, to all funds in the hands of the receiver over and above the running expenses of operating said road, and for all such further and general relief as your orator in equity and good conscience is entitled to, and as in duty bound your orator will ever pray, etc.

Forty-seventh. Your orater further prays your honor to permit this its bill of complaint to be filed as a substitute for and in lieu of its original cross-bill in the case of Malcom C. Turner *et al. v.* The

Indianapolis, Bloomington and Western Railway Company *et al.*, now pending and undetermined in this honorable court, and that this your orator's bill be permitted to be filed and taken as an amended and substituted bill instead of said original cross-
346 bill and the amendments thereto, and by the way of supplement thereto; and your orator will ever pray, &c.

FARMERS' LOAN AND TRUST COMPANY,
By WILLIAMS, BURR & CAPEN,
(Signed) *Solicitors.*

J. AUGUSTUS JOHNSON,
J. D. CAMPBELL, and
WILEY & PARKER,
Of Counsel.

WILLIAMS, BURR & CAPEN,
Solicitors Farmers' Loan & Trust Company.

I, J. Augustus Johnson, being first duly sworn, upon oath state that I have heard the foregoing amended bill read, and that I am the attorney of the complainant therein; that all of the facts stated in said amended supplemental bill to be true are true in fact, and the statements therein made on information and belief affiant believes to be true, as stated therein.

(Signed) J. AUGUSTUS JOHNSON.

Subscribed and sworn to before me this 26th day of April, A. D. 1876.

(Signed) T. D. BROWN, *C'k.*

347 Here follows the intervening petition of Frederick A. W. Davis et al., filed in said Circuit Court of Montgomery county, Indiana, on the 24th day of April, 1876:

STATE OF INDIANA, } *ss.*
348 Montgomery county, }

In the April Term thereof.

MALCOLM C. TURNER et al.
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY et al. } Petition.

To the Honorable Albert D. Thomas, judge of said court.

Your petitioners, Frederick A. W. Davis, William H. Morrison, John L. Ketcham, Jane M. Ketcham, William Needham, Samuel Miller, Peter Ditmars, and Peter J. Banta, would respectfully represent to your honor that they are engaged as partners in a general banking business in the city of Indianapolis, in the State of Indiana, the said Frederick A. W. Davis being the cashier of said firm.

That heretofore, to wit, on or about the 26th day of January, 1875,

one Tiernan, whose christian name is to your petitioners unknown, called at the office of the Indiana Banking Company, that being the name of your petitioner's bank, and proposed to sell to your petitioners through their said cashier, divers and sundry warrants and back-pay orders held by the firm of F. Tiernan and Bro. that
349 had been theretofore duly issued to them by the duly authorized agents of said Indianapolis, Bloomington and Western Railway Company; that your petitioners were then and there unwilling to invest in said warrants and orders, and so informed said Tiernan, and refused to purchase said warrants and orders, or any part thereof.

That thereupon, shortly afterwards, George B. Wright, who was then, and is now, the receiver of said railway company, duly appointed by your honor as well as by the Honorable Lyman Lacy, judge of the Circuit Court of DeWitt county, in the State of Illinois, sent to your petitioners a copy of the order of this court appointing him as such receiver, and directing the manner in which he should carry on such trust, the operative parts of which order and interlocutory decree, so far as your petitioner's interests were concerned, were in form and substance as follows, to wit:

He shall have authority * * * * to collect any and all claims or debts owing, or that may become due and owing to said defendants, the Indianapolis, Bloomington and Western Railway
350 Company, from any source; and out of the money that shall come into his hands from the operating of said road as such receiver he shall pay, first, all current expenses incident to the administration of said trust and to the operating of said railroad, including all sums due connecting or intersecting lines of railroads arising from the interchange of business heretofore done with any and all such connecting or intersecting lines, and all amounts now legally due from said defendant railway company for taxes, county, State, or special.

Next. All amounts due to all operatives and employees and agents of said railroad for any services rendered said railroad since the 1st day of July, 1874.

Next. All amounts due for supplies purchased and used in operating said road and furnished since the said first day of July last.

And all money not needed for the purposes aforesaid shall, as fast as received, be applied to the other indebtedness of said railway company; * * * * which said order was afterward so modified as to authorize and require said receiver to make payment of
351 all back-pay rolls or certificates or vouchers for labor, and all such payments to be made *pro rata* on all amounts due; that thereupon said petitioners, relying upon said order of this court and the assurance of said Wright, did, on or about the 26th day of January, 1875, procure from said F. Tiernan and Bro., and from P. Pophes & Bro., divers and sundry warrants and orders that had been theretofore, to wit, on the 30th day of November, 1874, issued to said parties by said company, a bill of particulars of the amounts of

said warrants, aggregating $23,929.84, together with a form of such orders, is herewith filed, marked Exhibit "A."

Your petitioners do not file copies of all of said orders for the reason that they are numerous and lengthy, but will if desired by the court.

Your petitioners further show that afterwards, to wit, on or about the 25th day of February, 1875, they loaned to one Thos. J. Noble the sum of $200, taking as collateral security two of said orders, No. 16 & 17, of the same date, for $165.75 and $216.00 respectively, which was all done on the assurance and faith aforesaid and
352 at the request of said receiver.

Your petitioners further show that afterwards, in September, 1875, said receiver requested your petitioners to take certain right-of-way certificates, by reason whereof said receiver stated that he would be enabled to manage said business more successfully and easily, and that he would pay your petitioners in November, 1875, on account of said certificates, the sum of $5,000, and they aver that they acceded to said request and took said certificates.

Your petitioners show that subsequent to the issuing of said orders large sums of money over and above the operating expense of said road and taxes, to wit, the sum of about $300,000.00, as your petitioners are informed and believe, have come to the hands of said receiver, which said sums he ought to have applied to the payment of the sums so due your petitioners, but so it is that said receiver has wholly failed, neglected, and refused to pay said amounts, or any part thereof, save the sum of $2,431.28, which was paid on the day of February, 1876, leaving the remainder still due and unpaid.

353 And Thomas B. Hinkle and others whose names are shown by Exhibit "B," herewith filed and made a part hereof, joining in this petition, would represent and show to this court that said railroad company was and is indebted to each of the persons mentioned in said exhibit to the amounts set opposite their respective names, for wages due them as operatives and employees of said railroad company, in operating said railroad before the time of the appointing of said receiver, which money is now due them.

Your petitioners state upon information and belief that said receiver has applied funds that have come to his hands, that ought to have been applied to the petitioners' claims, in purchasing materials and rolling stock, expensive and not necessary to the proper carrying out of said original order, on the faith of which your petitioners have acted, and that he is now contemplating investments in expensive machinery, rolling stock, iron and steel rails and other materials not strictly necessary to the carrying on of said trust, and that if he is allowed to so do he will be unable to pay off your peti-
354 tioners' claims.

They further show your honor that they are informed that there is danger a decree may be entered by this court directing the

sale of said railway without making provision for the payment of said claims, and that any such decree would be manifestly unjust.

They therefore pray that your honor may direct an enquiry to be made as to the truth of the facts herein alleged, and that upon such enquiry it may be by the court adjudged what amount is due your petitioners, and that it be decreed that there shall be no sale of said property of said defendant, said railway company, until all of your petitioners' claims have been paid, and that in case such sale is ordered that it be decreed that the proceeds thereof be applied first to the payment of your petitioners' claims; and that in case such receivership shall continue, said receiver be prohibited from making any further or other purchase of machinery, rolling stock, or materials until your petitioners' said claims shall have been fully
355 paid and satisfied, and will the court grant such other and further orders as may to the court seem proper and equitable in the premises; and your petitioners will ever pray, &c.

CLAYPOOL, MITCHELL & KETCHAM,
Solicitors for said Petitioners.

STATE OF INDIANA, } ss.
Marion County, }

Frederick A. W. Davis, being duly sworn, on his oath states that he is one of the foregoing petitioners, and making oath as to all of said petition except so much thereof as refers to the claim of Thomas B. Hinkle et al., on his oath says, on behalf of himself and the other petitioners composing the Indiana Banking Company, that the matters and facts contained in the above and foregoing petition so far as stated from his own knowledge are true, and so far as stated upon information he believes to be true; and further as to the matters referring to the claims of Hinkle et al., this affiant is not informed.

FREDERICK A. W. DAVIS.

356 STATE OF INDIANA, } ss.
Marion County, }

The within petition was subscribed and sworn to before me, a notary public within and for said county and State, this 22d day of April, 1876. In witness whereof I have hereunto set my hand and notarial seal.

[SEAL.] PRESSBY O. CALLIVER, *Notary Public.*

William A. Ketchum, being duly sworn, on oath says that he is of counsel for the petitioners, Thomas B. Hinkle et al., mentioned in Exhibit "B"; that the matters and facts set forth in said petition, so far as said Hinkle et al. are concerned, are true, as affiant is informed and believes; that he makes this affidavit on behalf of said petitioners for the reason that, their claims being small and the parties numerous, separate affidavits in relation thereto would encumber the records.

WILLIAM A. KETCHUM.

Subscribed and sworn to in open court this day of April, 1876

357 *Exhibit "A."*

Indianapolis, Bloomington and Western Railway, No. 24.

OFFICE OF PAYMASTER,
INDIANAPOLIS, IND., Nov. 30, 1874.

This is to certify that there is due the sum of dollars for accepted orders from employees, the same having been deducted from the amount due them on the pay roll of the company for the month , 1874.

$.....

Received payment in full of the above.

Vou. No.	Names.	Months.	Amounts.
23	F. Tiernan & Bro...	March and April, 1874.....	124 51
5	Same.....	May, 1874.....	2,037 17
6	Same.....	June, 1874.....	2,196 51
7	Same.....	July, 1874.....	2,953 60
8	Same.....	August, 1874.....	3,529 48
9	Same.....	September, 1874.....	3,006 34
10	Same.....	October, 1874.....	3,326 26
11	Same.....	November, 1874	1,802 26
24	Same.....	Sept., Oct. and Nov., 1874.....	58 75
12	A. Papher & Bro...	Mar., Apl., May, June, 1874...	450 90
13	Same.....	July, 1874.	482 22
14	Same.....	August, 1874.....	1,019 90
21	Same.....	September, 1874.....	714 30
22	Same.....	October, 1874.....	1,046 88
15	Same.....	November, 1874.....	1,173 76
			23,929 84
		Credit of 10 per cent. dividend.....	2,393 00
		Balance.....	21,536 84

358 Dated Nov. 30, 1874.

Nos. 16.	Thos. T. Noble.	June, July & Aug., 1874.....	165 75
" 17	Same.....	Sept., 1874.....	216 00
			381 75
		Credit of 10 per cent. dividend.....	38 20
			343 55

The last two are held as collateral to a loan of $200, at the written request of George B. Wright.

F. A. W. DAVIS,
Cash.

Copy.

Exhibit "B."

The Indianapolis, Bloomington and Western Company are indebted to the persons following, each for the amount set opposite their respective names for labor done in operating said railroad:

	Thomas B. Hinkle	$189 45
	C. E. Mott	137 00
	Jerre Ambrose	295 00
	R. D. Jerry	14 00
	William Doyle	196 00
	M. F. Meagher	200 00
	Harman Strover	120 00
	Henry A. Case	160 00
	William Strover	10 00
	William Kerfoot	232 75
	Adolph Maker	260 00
	James Thrope	214 65
	Michael Keigher	135 00
359	Mathew Tawcet	574 00
	James Fullon	110 00
	Newton Cunningham	62 80
	John Fooney	18 45
	Michael Bougart	191 00
	Louise Wagner	500 00
	Joseph Cruger	300 00
	Sam Cruger	270 00
	Charley Cruger	120 00
	Fred Shumaker	203 00
	George Lanna	376 80
	William Preston	119 84
	John Shannon	340 00
	Thomas Redding	382 00
	Joseph Johnson	259 85
	August Abbrick	291 00
	James Struckmarten	30 00
	Pat. Bartley	538 00
	Edward Swan	426 00
	Charles Sell	224 50
	James Hogden	260 20
	M. Matherway	430 00
	Philip Johnson	165 00
	John McCafers	131 95
	W. F. Sutton	400 00
	George Larmet	421 15
	M. Matherway	7 20
	A. J. Allen	357 50
	W. R. Miller	440 00
	John Drake	227 50

	Thomas Moran	$124 00
	E. Londerman	160 00
360	M. M. Griffin	250 00
	D. G. Vallmer	249 70
	William J. W. Lonaer	360 00

Here follows the answer of Robert Turner and Charles W. Smith to the cross-bill and amended cross-bill of the Farmers' Loan and Trust Company:

361 United States Circuit Court, Southern District of Illinois

The answer of Robert Turner and Charles W. Smith to the cross-bill and amended cross-bill of the Farmers' Loan and Trust Company.

These defendants, now and at all times hereafter saving and reserving unto themselves all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said bills contained, for answer thereunto, or to so much or to such parts thereof as these defendants are advised it is material or necessary for them to make answer unto, answering, say:

These defendants admit that the Farmers' Loan and Trust Company is a corporation created by and a citizen of the State of New York, and that prior to July 12, 1869, there was a railroad corporation organized and existing under the laws of the State of Indiana, called the Indianapolis, Crawfordsville and Danville Railroad Company, which was clothed with the powers and privileges set out in the said bills, and admit, as therein alleged, that prior to July 12, 1869, the said railroad company had become and was indebted to divers persons and corporations in the sum of $1,500,000, evidenced by certain coupon bonds secured by first mortgage on said entire line of railroad belonging to said railroad corporation; that the
362 Danville, Urbana, Bloomington and Pekin Railroad Company was created a corporation by virtue of an act of the general assembly of the State of Illinois, approved February 28th, 1867, and was thereby endowed with powers and privileges set out in the said cross-complainant's bills, and that the said Danville, Urbana, Bloomington and Pekin Railroad Company, on the first day of April, 1869, signed, sealed, executed, acknowledged and delivered to the said Farmers' Loan and Trust Company its certain trust deed or mortgage, by which said mortgage or deed of trust the said last mentioned corporation conveyed to the said Farmers' Loan and Trust Company all and singular the property and franchises particularly set out in the said cross-complainant's bills, and that the said mortgage was made to secure the payment of 2,000 bonds for the sum of $1,000 each, bearing interest at the rate of 7 per cent. per annum, payable semi-annually, said principal and interest being payable in gold coin to the Farmers' Loan and Trust Company, or bearer, in the city of New York, the principal of said bonds being due and payable to the

said Farmers' Loan and Trust Company, or bearer, on the 1st
363 day of April, 1909, and bearing date the 1st day of April,
1869, and said interest being payable on the 1st day of October and April of each and every year.

And these respondents further admit that the said mortgage contained the provisions substantially as alleged in the said cross-complainant's bills, but whether the said mortgage was valid and legal, and whether the said Farmers' Loan and Trust Company could accept such conveyance and take the property alleged to be conveyed by it, these respondents neither admit nor deny, but leave such question to be established by evidence, and to the judgment of the court.

Further answering, they admit that the said two railroad companies above mentioned, by articles of consolidation bearing date the 12th day of July, 1869, consolidated their stock and property, and became one corporation, under the name and style of the Indianapolis, Bloomington and Western Railway Company.

These respondents, further answering, say that the said line of the Danville, Urbana, Bloomington and Pekin Railroad Company had no equipment of any consequence, and the said Indianapolis, Crawfordsville and Danville Railroad Company's line very little,
364 at the date of such consolidation, and that up to and until
1873–'4 the said lines of railroad had a very meagre equipment, and far from enough to adequately transact the business offered to them.

Further answering, these respondents admit that the said Indianapolis, Bloomington and Western Railway Company, after the consolidation aforesaid, made an alleged mortgage or deed of trust to the Farmers' Loan and Trust Company to secure the payment of 5,000 bonds of one thousand dollars each, dated on the same day with the said deed of trust, and payable to William Dennison, or bearer, in the city of New York, on the 1st day of October, 1909, principal and interest payable in gold, free of government tax, with interest warrants thereto attached, signed by the secretary for the payment of interest thereon at the rate of 7 per cent. per annum, payable in gold, and payable in New York on the successive first days of October and April of each year, but whether the said railway company had power to make the said mortgage, or whether the said Farmers' Loan and Trust Company had authority or power to accept such conveyance or take the property conveyed by the same, and whether it has a right to foreclose the said mortgage, these respondents do not know; but these respondents say that they
365 are informed and believe that of the said series of bonds
under such alleged mortgage or deed of trust not more than 3,000,000 of them have been issued, and that 2,000,000 of them are still in the custody of its agents and its representatives.

Further answering, these respondents admit that the said indebtedness of the said Indianapolis, Crawfordsville and Danville Railroad Company was satisfied and extinguished, as shown in the said cross-complainant's bill, by the substitution in place of the same of

an equal number of the said 5,000 bonds secured by the last mentioned conveyance made by the consolidated company—the Indianapolis, Bloomington and Western Railway Company—to the said Farmers' Loan and Trust Company, and that the said bonds of such issue so used in satisfying the said indebtedness of the said Indianapolis, Crawfordsville and Danville Railway Company are included within the $3,000,000 which these respondents admit as aforesaid to have been issued.

These respondents also admit that on the 1st day of October, 1870, the said Indianapolis, Bloomington and Western Railway Company, being thereto duly authorized by resolution of its board of directors, duly made, executed, signed, sealed, acknowledged, and delivered to William Dennison and Benjamin E. Smith a certain other

366 indenture of mortgage or deed of trust, conveying unto the said Dennison and Smith, as trustees, all and singular the entire railroad of the said grantor, extending from Indianapolis, in the State of Indiana, westwardly to Pekin, in the State of Illinois, through Crawfordsville, in said first mentioned State, and through Danville, Urbana, and Bloomington, in the State of Illinois—altogether in length of railway track about 214 miles, about 83 miles thereof being in the State of Indiana, and about 131 miles thereof in the State of Illinois, with all its franchises, equipments, property, lands, tenements, buildings, fixtures, machinery, goods, and chattels used in or connected with the operation of said railway, including all rents, reservations, reversions of every nature and kind whatsoever, including all the property between said terminal points which the said grantor then had, owned, and possessed, or might thereafter acquire, which said indenture or mortgage was duly filed for record in the various counties through which the said line of railroad is located.

367 These respondents, further answering, admit that the said last mentioned indenture was made in trust to secure an issue of $1,500,000 of mortgage bonds of the said Indianapolis, Bloomington and Western Railway Company, the principal and interest payable in the city of New York, principal being payable 20 years from their date, and to bear interest at the rate of eight per cent, payable semi-annually on the first days of January and July of each and every year, provided the first installment of interest should not be payable until first day of July, 1871. And your respondents admit that it was provided among other things in said indenture that in case default should be made in the payment of any interest on the said bonds secured thereby according to the tenor and effect of the coupons thereto annexed, or in case of the default of payment of any of said bonds when the same should become due, without the consent of the holder or holders of said bonds, when such default should occur, said grantor, within six months after such default, the same default still continuing, or the demand of the said trustees, should and would surrender to them or to their agent, actual possession of the said granted and demised railway premises, together with all the

books, records, papers, accounts, and money of said grantor,
368 and all management and control thereof, and all the expenses of taking, holding, managing, and operating said property, if possession thereof be so taken, should be paid from the income and profits thereof, and in case of sale from the proceeds of such sale, and apply the residue of said proceeds as is in and by said indenture provided; provided that no such demand for possession should be made by said trustee until they should be required by the holders of at least 1,000 of the said bonds then outstanding and unpaid.

And it was further provided therein that in case default should be made as aforesaid, and continue as aforesaid, it should be lawful for the said trustees or their successors in said trust, after entry as aforesaid, or other entry, or without entry, to sell said mortgaged property at public auction in the city of Chicago, in the State of Illinois, at such time as said trustees might appoint, they having demanded of the said grantor full payment of all money then in default, first having advertised the time and place of such sale, and on receipt of the purchase-money to convey said property to the purchaser, and after deducting from the proceeds of all the expenses of the sale all advances and liabilities which might have been
369 incurred by said trustees in operating, controlling and maintaining such railway and property, and in managing its business affairs, and all payment of taxes, charges, assessments and liens prior to the lien of the said last mentioned indenture on said premises, or any part thereof, as well as reasonable compensation for the services of said trustees, and apply the residue in the payment of the interest and principal of said issue of bonds secured by said indenture in the manner provided therein.

And it was furthermore provided that if default should be made in the payment of half-yearly interest on any of the said bonds, and the warrant or coupon should be presented and their payment demanded, and said default should have so continued for six months after such default, and without the consent of the holder or holders of said bonds or any part thereof, secured by said indenture, then all of said bonds should become immediately due and payable, anything in the said bonds to the contrary notwithstanding, the said trustees might proceed to collect both principal and interest of all such outstanding bonds by foreclosure and sale of such property or otherwise, as is in and by said last mentioned indenture provided.

And, further answering, these respondents admit and say that the said entire series of bonds which last mentioned indenture
370 was given to secure were issued and put upon the market and negotiated for value in due course of business, and that the same with large arrearages of interest thereof are now a valid and outstanding debt of said Indianapolis, Bloomington and Western Railway Company, and are a valid lien on all the property and effects of the said railway company in the States of Indiana and Illinois, but whether the said mortgage is a first or second or third lien upon the property so mentioned, these respondents do not

undertake to say, and in that respect they neither admit the allegation made by the said complainants nor deny the same.

These respondents, further answering, say that William Dennison, one of said trustees, has since the execution of said indenture departed this life, and that under the provisions of said last mentioned indenture Joseph T. Thomas has been appointed, and is now acting as such trustee in his stead.

These respondents, further answering, admit that previous to the 28th day of June, A. D. 1872, the Havana, Mason City, Lincoln and Eastern Railway Company and the Monticello Railroad Company, both corporations organized under the laws of the State of
371 Illinois, consolidated their property, stock and franchises under their charters and the laws of Illinois in due form of law, and gave to the consolidated company the name of the Havana, Mason City, Lincoln and Eastern Railway Company, and by such consolidation became one single corporation under the name aforesaid, and the said consolidated company by such consolidation became possessed of all the property and franchises which before that time belonged to the said Monticello Railroad Company and the said Havana, Mason City, Lincoln and Eastern Railway Company, which said property is described as follows:

The railroad track, lands, grounds, buildings and property, the road-bed, sidings, switches, stations, depots, rights of way, and all rights, credits and subscriptions which belonged to the said Monticello Railroad Company before and at the time of the consolidation.

The said line of railroad beginning at the city of Decatur, in the county of Macon, in the State of Illinois, running thence to the town of Monticello, in the county of Fayette; thence to the city of Champaign, in the county of Champaign; thence through the county of Vermillion to the junction of the Chicago, Danville and Vin-
372 cennes Railroad, in the county of Iroquois, a distance of about 85 miles, all in the State of Illinois; and the railroad tracks, lands, grounds, buildings and property, the road-bed, sidings, stations, switches, depots, rights of way, and all rights, credits, subscriptions and franchises which were of the said Havana, Mason City, Lincoln and Eastern Railway Company before and at the time of the said consolidation. The said Havana, Mason City, Lincoln and Eastern Railway commencing at some point on the Mississippi River, thence running eastwardly to Havana, Mason county, Illinois; thence to Mason City, in said Mason county; thence to the city of Lincoln, in Logan county, Illinois; thence to Clinton, DeWitt county, Illinois; thence eastwardly to the east line of the State of Illinois.

Your orators would further show unto honor that on the 28th day of June, A. D. 1872, the Indianapolis, Bloomington and Western Railway Company, a corporation doing business under the law of the States of Illinois and Indiana, being a consolidated company as hereinafter shown, as by law authorized, purchased from the said Havana, Mason City, Lincoln and Eastern Railway Company all its property and franchises heretofore mentioned, being and includ-

ing all the property and franchises of the said original Havana,
373 Mason City, Lincoln and Eastern Railway Company and the said Monticello Railroad Company, consolidated aforesaid. And thereupon the said Havana, Mason City Lincoln and Eastern Railway Company, by deed properly executed and acknowledged, conveyed the said franchises and property to the said Indianapolis, Bloomington and Western Railway Company.

And these respondents say that thereafter, on the same day, the said Indianapolis, Bloomington and Western Railway Company, as it was by law empowered to do, conveyed the property and franchises so purchased as aforesaid to William Dennison and Robert Turner by deed of trust, executed and acknowledged in due and lawful form, to secure the payment of a certain issue of bonds of the number of 5,500, and of the sum of $1,000 each, said bonds to be signed by the president and secretary and authenticated, when issued, by the certificate of the trustees, and numbered consecutively from one to fifty-five hundred, bearing date July 1st, 1872, and payable to William Dennison or bearer, in the city of New York, on the first day of July, A. D. 1912, principal and interest payable in gold coin of the United States of America, of equal standard value of the gold coin of the United States of America, free of government
374 tax, with interest warrants thereto attached, signed by the secretary, for the payment of interest thereon at the rate of seven per cent. per annum, in gold coin as aforesaid, on the successive first days of July and January of each year, said principal and interest payable at the office or agency of the company at the city of New York; and by such deed of conveyance the said railroad to be constructed and equipped, together with its appurtenances and its franchises, appendages, equipments, property, tools, income and interests which then belonged to, or which might hereafter appertain to said line of railroad, to secure the payment of said bonds and interest warrants, in consideration of all and singular the premises granted, were bargained, sold and conveyed to William Dennison and Robert Turner, as trustees, and to their successors and assigns, all and singular the said railroad of the said Indianapolis, Bloomington and Western Railway Company, known as the Western Extension of the said Indianapolis, Bloomington and Western Railway Company, and described as follows: Commencing at the city of Champaign, in the county of Champaign, State of Illinois; thence running to the town of White Heath, in the county of Fayette; thence by way of Clinton, in the county of DeWitt; Lincoln, in the county of Logan, and Mason City, in the county of Mason, westwardly to the Mis-
375 sissipi River; and from the said town of White Heath, by way of Monticello, in the county of Fayette, to the city of Decatur, in the county of Macon, all in the State of Illinois, altogether being in length about 215 miles, together with all its franchises, equipments, property, lands, tenements, fixtures, buildings, machinery, goods, and chattels of every kind and nature used in connection with the operation of said line of railway, including the

rents, reservations, and reversions of every nature or kind whatsoever, including all the property between said terminal points which the said Indianapolis, Bloomington and Western Railway Company then had, owned, or purchased, or might thereafter acquire, own, or possess; and it was provided in and by said deed of trust that the said trustees should hold, use and own the same solely for the benefit and protection and security of the persons and corporations who should hold and own the bonds described above, and for enforcing the stipulations of said company as to the said issue of bonds, and the disposal thereof, and securing the same, and the final payment thereof, in their intent and meaning, whether continued in said bonds, or in the warrants attached to the same, or in the said deed. And it was furthermore pro-
376 vided that in case default should be made in the payment of any interest of the aforesaid bonds, according to the tenor of the coupons thereto annexed, or of the provisions thereof, or in case default should be made in the payment of the principal of said bonds or any of them, when the same should become due, without the consent of the holder of such bonds, when such default should occur, the said railway company covenanted and agreed that the said trustees, and their successors and assigns, within six months after such default shall have occurred, the same default still continuing, the said railway company, on demand of the trustees for the time being, should and would surrender to them or to their agent the actual possession of the said railway and premises, together with all the books, records, papers, accounts, and moneys in the hands of the said railway company and appertaining and belonging to the said railway company, properly on account of the said railway thereby demised, and all management and control thereof, and that all the expenses of taking, holding, managing, and operating said property should, if possession should be so taken, be paid from the in-
377 come and profits thereof, and if said property should thereafter be sold, then from the proceeds of the sale thereof, all such expenses might be paid from the sale of any personal property appertaining to said demised premises, as the said trustees might deem proper; and it was furthermore provided that in case such default should be made as aforesaid, and continue as aforesaid, it should be lawful for the trustee, or their successors in trust, after entry as aforesaid, or other entry, or without entry, personally, or by agent or attorney, to sell and dispose of to the highest bidder, for cash, all and singular the premises and property thereby conveyed or intended so to be, as an entirety, at public auction in the city of Springfield, State of Illinois, at such time as said trustees may appoint, first having demanded of the said railway company full payment of all money in default, and also first having given sixty days' notice of such time and place of sale and a full description of the property sold, by advertisements therein in three newspapers, one published in the State of Illinois, one in the city of New York, and one in the city of Indianapolis, Indiana, and upon such sale, and receiving the purchase-money

therefor, to convey the same by good and sufficient deed of
378 conveyance to the purchaser or purchasers thereof, and that such conveyance so made should convey all the right, title, interest, estate, and property of the said railway company of, in, and to the said roadand premises, franchises, and property, to the said purchaser, in fee-simple, forever, and should be a perpetual bar, both in law and in equity, against the said railway company and their successors and assigns, and against all persons claiming or to claim any interest in the said premises or any part thereof, forever; and by said deed the trustees were instructed to deduct from the proceeds of sale the expenses of the sale and conveyance and all advances and liabilities which might have been made or incurred, both in operating, controlling, and maintaining the said railway property, and managing its business and affairs while in possession, and all payments of taxes, charges and assessments, as well as reasonable compensation for their services in that behalf, and to apply the proceeds of such sale to the payment of the interest of said $5,500,000 of bonds, or so many of them as should have been issued by the said railroad company, pro rata, until such interest should be paid, and afterwards to apply the re-
379 mainder on the principal of said bonds pro rata, until such principal should be paid; and it was also provided that the trustees might in their discretion sell the said premises and property conveyed by said deed as an entirety, or any part thereof; and it was furthermore provided in and by said deed of trust that if default should be made by said railway company in the payment of half-yearly interest on any of said bonds, and the warrant or interest coupon should have been presented and its payment be demanded, and such default should have continued for six months after such demand without the consent of such holder of coupon or bond, then and thereupon the principal of all said bonds secured should be and become immediately due and payable, anything in said bonds to the contrary notwithstanding.'

And these respondents would show that it was also provided in said deed of trust, that in case of the resignation or inability to act of the trustees aforesaid, that the board of directors of the said railway company might appoint a successor or successors to fill such vacancy, and such appointment by the board should invest the trustee or trustees so appointed with all the interest,
380 estate, power and authority in the premises, and subject him or them to the same obligation hereby given to the said William Dennison and Robert Turner. And these respondents further say that on the day of A. D. 187 , William Dennison, one of the trustees originally appointed by said deed of trust, departed this life, and that the said board of directors of the said railway compaay, in accordance with the said provisions of the said deed of trust, appointed Charles W. Smith as his successor, and that he duly accepted such appointment.

And the said indenture was duly recorded in all the counties of the State of Illinois through or in which the said property therein de-

scribed and conveyed was situated, and as provided by the said indenture, and under the protection thereof, the said Indianapolis, Bloomington and Western Railway Company has either negotiated absolutely, or by way of hypothecation or security, in the usual course of business, and for value, all and singular the said $5,500,000 of bonds intended to be secured by the said conveyance. And the said amount of obligations commonly known as extension bonds is now outstanding against the said corporation, either absolutely or
381 by hypothecation, and no part of the same has ever been paid, cancelled, or retired by the said corporation.

On the sixteenth day of November, 1874, the said Indianapolis, Bloomington and Western Railway Company, by its president and secretary duly authorized, did sign, seal, execute, acknowledge and deliver a certain trust conveyance or mortgage of all and singular its chattels and personal property therein more specifically described, to the defendant Joseph T. Thomas, embracing therein all and singular the personal property of every kind, character, and description, in any manner belonging to the said corporation; the said trust mortgage being executed as security for the *the* benefit, protection and payment of all and singular such creditors as held the notes, acceptances and obligations aforesaid, not included in the bonded issues hereinbefore described, but more specifically set out at large in said chattel mortgage.

And these respondents, further answering, say that from the proceeds of the sale and hypothecation of the said 5,500 bonds issued by the said Indianapolis, Bloomington and Western Railway Company for the equipment and construction of the said extension, and
382 secured by the said deed of trust executed by the said railway company, conveying said railroad property purchased from the Havana, Mason City, Lincoln and Eastern Railway Company, to William Dennison and Robert Turner, or their successors and assigns, a large amount of money was diverted by the officers of the said Indianapolis, Bloomington and Western Railway Company, and invested in equipment, property, fixtures, buildings, machinery, goods and chattels, but principally in locomotive engines and other rolling stock, for the use and behalf of the original main line of the said Indianapolis, Bloomington and Western Railway Company.

These respondents are not informed exactly as to the amount of money that was expended from the fund raised by the sale and hypothecation of the said 5,500 bonds upon the equipment of the main line, but are advised and believe that a million dollars and over was diverted to the use of the main line, and that a large amount of the locomotive engines, rolling stock, fixtures, buildings, and machinery upon the main line were bought or constructed from the funds realized as aforesaid. And your orator shows unto your honor,
383 and so charges, that the bondholders holding bonds secured under the said deed of trust to said Dennison and Turner have a right and are entitled to a first and paramount lien upon all such rolling stock, equipment, buildings, fixtures, and machinery.

And these respondents, further answering, say that the said Indianapolis, Bloomington and Western Railway Company have made default in the payment of the interest of *of* the mortgage of October 1st, 1869, on the 1st day of October, 1874, and also made default in the payment of the semi-annual installments of interest due on the second series of bonds issued in the name of the Danville, Urbana, Bloomington and Pekin Railroad Company, on the 1st day of October, 1874, and that the said railway company defaulted in the payment of the semi-annual installment of interest due in July, 1874, on the said bonds secured by deed of trust to William Dennison and Benjamin E. Smith, and on the bonds commonly called the extension bonds, secured by the mortgage to William Dennison and Robert Turner, on the 1st day of July, 1874. And these respondents
384 show that no part of the several installments of interest due on the different bonded obligations have ever been paid by the said corporation, nor have any part thereof, but the same still remains in arrear, and constitutes an indebtedness against the said corporation and a lien upon the property of the said company, according to the different legal and equitable priorities as they may be determined as a matter of law by the court upon the said several indentures of mortgage hereinbefore recited.

And, further answering, these respondents deny that the cross-complainant is entitled to the relief or any part thereof asked for in the said original and said amended cross-bill, and demand and pray the same advantage of this answer as if they had pleaded or demurred to the said bills of complaint, and pray to be dismissed with their reasonable costs and charges in this behalf sustained.

ROBERT TURNER.
CHARLES W. SMITH.
By H. CRAWFORD,
Their Solicitor.

McDONALD & BUTLER,
Of Counsel.

Here follows the cross-bill of Robert Turner and Charles W. Smith:

United States Circuit Court, Southern District of Illinois.

To the Honorable Judge of the United States Circuit Court, Southern District of Illinois, in chancery sitting:

Your orators, Charles W. Smith and Robert Turner, hum-
385 bly complaining, would show unto your honor that previous to the 28th day of June, A. D. 1872, the Havana, Mason City, Lincoln and Eastern Railway Company and the Monticello Railroad Company, both corporations organized under the laws of the State of Illinois, consolidated their property, stock and franchises under their charter and the laws of Illinois in due form of law, and gave to the consolidated company the name of the Havana, Mason City

Lincoln and Eastern Railway Company, and by such consolidation became one single corporation under the name aforesaid, and the said consolidated company by such consolidation became possessed of all the property and franchises which before that time belonged to the said Monticello Railroad Company and the said Havana, Mason City, Lincoln and Eastern Railway Company, which said property is described as follows: The railroad track, lands, grounds, buildings and property, the road-bed, sidings, switches, stations, depots, rights of way, and all rights, credits and subscriptions which belonged to the said Monticello Railroad Company before and at the time of the said consolidation. The said line of railroad be-
386 ginning at the city of Decatur, in the county of Macon, in the State of Illinois, running thence to the town of Monticello, in the county of Fayette; thence to the city of Champaign, in the county of Champaign; thence to the county of Vermillion to the junction of the Chicago, Danville and Vincennes Railroad, in the county of Iroquois, a distance of about 85 miles, all in the State of Illinois; and the railroad tracks, lands, grounds, buildings and property, the road-bed, sidings, stations, switches, depots, rights of way and all rights, credits, subscriptions and franchises which were of the said Havana, Mason City, Lincoln and Eastern Railway Company before and at the time of said consolidation. The said Havana, Mason City, Lincoln and Eastern Railway commencing at some point on the Mississippi River, thence running eastwardly to Havana, Mason county, Illinois; thence to Mason City, in said Mason county; thence to the city of Lincoln, in Logan county, Illinois; thence to Clinton, in De Witt county, Illinois; thence eastwardly to the east line of the State of Illinois.

Your orators would further show unto your honor that on the 28th day of June, A. D. 1872, the Indianapolis, Bloomington and Western Railway Company, a corporation doing business under the law of the States of Illinois and Indiana, being a consolidated company as hereinafter shown, as by law authorized, purchased from
387 the said Havana, Mason City, Lincoln and Eastern Railway Company all its property and franchises heretofore mentioned, being and including all the property and franchises of the said original Havana, Mason City, Lincoln and Eastern Railway Company and the said Monticello Railroad Company, consolidated as aforesaid. And thereupon the said Havana, Mason City, Lincoln and Eastern Railway Company, by deed properly executed and acknowledged, conveyed the said franchises and property to the said Indianapolis, Bloomington and Western Railway Company.

And your orators would show further that thereafter, on the same day, the said Indianapolis, Bloomington and Western Railway Company, as it was by law empowered to do, conveyed the property and franchises so purchased as aforesaid to William Dennison and Robert Turner by deed of trust, executed and acknowledged in due and lawful form, to secure the payment of a certain issue of bonds of the number of 5,500, and of the sum of $1,000 each, said bonds

to be signed by the president and secretary and authenticated, when issued, by the certificate of the trustees, and numbered consecutively from one to fifty-five hundred, bearing date July 1st, 1872, and payable to William Dennison or bearer, in the city of New York, on the first day of July, A. D. 1912, principal and interest payable
388 in gold coin of the United States of America, of equal standard value of the gold coin of the United States of America, free of government tax, with interest warrants thereto attached, signed by the secretary, for the payment of interest thereon at the rate of seven per cent. per annum in gold coin as aforesaid, on the first successive days of July and January of each year, said principal and interest payable at the office or agency of the company at the city of New York; and by such deed of conveyance the said railroad to be constructed and equipped, together with its appurtenances and its franchises, appendages, equipments, property, tools, income, and interests which then belonged to, or which might hereafter appertain to said line of railroad, to secure the payment of said bonds and interest warrants, in consideration of all and singular the premises granted, were bargained, sold, and conveyed to William Dennison and Robert Turner, as trustees, and to their successors and assigns, all and singular the said railroad of the said Indianapolis, Bloomington and Western Railway Company, known as the Western Extension of the said Indianapolis, Bloomington and Western Railway Company, and described as follows: Commencing at the city of Champaign, in the county of Champaign, State of Illinois; thence running to the town of White Heath, in the county of Fayette; thence by way of Clinton, in the county of DeWitt, Lincoln, in the county of Logan, and Mason City, in the county of Mason, westwardly to the Mississippi River, and from the said
389 town of White Heath, by way of Monticello, in the county of Fayette, to the city of Decatur in the county of Macon, all in the State of Illinois, altogether being in length about 215 miles, together with all its franchises, equipments, property, lands, tenements, fixtures, buildings, machinery, goods, and chattels of every kind and nature used in connection with the operation of said line of railway, including the rents, reservations, and reversions of every nature or kind whatever, including all the property between said terminal points which the said Indianapolis, Bloomington and Western Railway Company then had, owned, or purchased, or might thereafter acquire, own, or possess; and it was provided in and by said deed of trust that the said trustees should hold, use, and own the same solely for the benefit and protection and security of the persons and corporations who should hold and own the bonds described above, and for enforcing the stipulations of said company as to the said issue of bonds, and the disposal thereof, in their intent and meaning, whether contained in said bonds, or in the warrants attached to the same, or in the said deed. And it was furthermore provided that in case default should be made in the payment of any interest of the aforesaid bonds according to the tenor of the coupons

thereto annexed, or of the provisions thereof, or in case default should be made in the payment of the principal
390 of said bonds, or any part of them, when the same should become due, without the consent of the holders of such bonds, when such default should occur, the said railway company covenanted and agreed that the said trustees and their successors and assigns, within six months after such default shall have occurred, the same default still continuing, the said railway company, on demand of the trustees for the time being, should and would surrender to them, or to their agent, the actual possession of the said railway and premises, together with all the books, records, papers, accounts, and moneys in the hands of the said railway company and appertaining and belonging to the said railway company property on account of the said railway thereby demised, and all management and control thereof, and that all the expenses of taking, holding, managing, and operating said property should, if possession should be so taken, be paid from the income and profits thereof, and if said property should thereafter be sold, then from the proceeds of the sale thereof all such expenses might be paid from the sale of any personal property appertaining to said demised premises as the said trustees might deem proper; and it was furthermore provided that in case such default should be made as aforesaid, and continued as aforesaid, it should be lawful for the trustees, or their successors in trust, after entry
391 as aforesaid, or other entry, or without entry, personally or by agent or attorney, to sell and dispose of to the highest bidder, for cash, all and singular the premises and property thereby conveyed, or intended so to be, as an entirety, at public auction in the city of Springfield, State of Illinois, at such time as said trustees may appoint, first having demanded of the said railway company full payment of all money in default, and also first having given sixty days' notice of such time and place of sale and a full description of the property sold by advertisements therein in three newspapers, one published in the State of Illinois, one in the city of New York, and one in the city of Indianapolis, Indiana; and upon such sale and receiving the purchase-money therefor, to convey the same by good and sufficient deed of conveyance to the purchaser or purchasers thereof, and that such conveyance so made should convey all the right, title, interest, estate, and property of the said railway company of, in, and to the said road and premises, franchises, and property to the said purchaser in fee-simple, forever, and should be a perpetual bar, both in law and in equity, against the said railway company and their successors and assigns, and against all persons claiming or to claim any interest in the said premises or any part thereof, forever; and by said deed the trustees were instructed
392 to deduct from the proceeds of sale the expenses of the sale and conveyance and all advances and liabilities which might have been made or incurred both in operating, controlling, and maintaining the said railway property and managing its business and affairs while in possession, and all payments of taxes, charges, and as-

sessments, as well as reasonable compensation for their services in that behalf, and to apply the proceeds of such sale to the payment of the interest of said $5,500,000 of bonds, or so many of them as should have been issued by the said railroad company pro rata, until such interest should be paid, and afterwards to apply the remainder on the principal of said bonds pro rata, until such principal should be paid; and it was also provided that the trustees might in their discretion sell the said premises and property conveyed by said deed, as an entirety or any part thereof; and it was furthermore provided in and by said deed of trust that if default should be made by said railway company in the payment of half-yearly interest on any of said bonds, and the warrant or interest coupon should have been presented and its payment be demanded, and such default should have continued for six months after such demand, without the consent of such holder of coupon or bond, then and thereupon
393 the principal of all said bonds secured should be and become immediately due and payable, anything in said bonds to the contrary notwithstanding.

And your orators would show that it was also provided in said deed of trust, that in case of the resignation or inability to act of the trustees aforesaid, that the board of directors of the said railway company might appoint a successor or successors to fill such vacancy, and such appointment by the board should invest the trustee or trustees so appointed with all the interest, estate, power and authority in *in* the premises, and subject him or them to the same obligation hereby given to the said William Dennison and Robert Turner.

Your orator would further respectfully show unto your honor that on the day of , A. D. 187 , William Dennison, one of the trustees originally appointed by said deed of trust, departed this life, and that the said board of directors of the said railway company, in accordance with the said provisions of the said deed of trust, appointed your orator, Charles W. Smith, as his successor, and that your orator duly accepted such appointment.

And the said indenture was duly recorded in all the counties of the State of Illinois through or in which the said property
394 therein described and conveyed was situated; and as provided by the said indenture, and under the protection thereof, the said Indianapolis, Bloomington and Western Railway Company has either negotiated absolutely, or by way of hypothecation or security in the usual course of business, and for value, all and singular the said $5,500,000 of bonds intended to be secured by the said conveyance; the said bonds having been duly signed by the president and secretary of said company, and authenticated, when issued, by said trustees. And the said amount of obligations, commonly known as extension bonds, is now outstanding against the said corporation, either absolutely or by hypothecation, and no part of the same has ever been paid, cancelled or retired by the said corporation.

Your orators would further show that prior to July 12th, 1869, there was a railroad corporation organized and existing under the general laws

of the State of Indiana, called the Indianapolis, Crawfordsville and Danville Railroad, which corporation was vested with full corporate power to locate, construct and operate a line of railroad from Indianapolis, Marion county, Indiana, westwardly through the counties of Hendricks, Boone, Montgomery, Fountain and Warren, to the
395 western boundary line of the State of Indiana, and to procure the means to build and operate such line of road the said corporation was vested with full corporate power to borrow money and issue bonds secured by a mortgage upon the said line of railroad and its appurtenances and appendages, and with all other capacities and power usually vested in such railroad companies under the laws of the State of Indiana, including the power to consolidate its stock and property with all connecting lines of railroad lying in another State. Prior to the said July 12th, 1869, the said Indianapolis, Crawfordsville and Danville Railroad Company had become and was then indebted to divers persons and corporations in the sum of one million five hundred thousand dollars, evidenced by certain coupon bonds secured by a first mortgage on the entire line of railroad belonging to such corporations, together with its appurtenances, equipments, tolls and franchises.

By virtue of an act of the General Assembly of the State of Illinois, approved February 28th, 1867, there was created and organized a corporation of the State of Illinois, called the Danville, Urbana, Bloomington and Pekin Railroad Company, which said corporation, by virtue of such enactment, was endowed with full corporate power to locate, construct and operate the line of railroad designated
396 in said charter from Pekin, in Tazewell county, eastwardly, through Bloomington, Mt. Pleasant, Champaign and Danville, to the eastern boundary line of the State of Illinois.

In order to borrow money said Danville, Urbana, Bloomington and Pekin Railroad Company on the 1st day of April, in the year of our Lord 1869, did sign, seal and execute, acknowledge and deliver its certain deed of indenture, trust deed, or mortgage unto the defendant, the Farmers' Loan and Trust Company, a corporation of the city of New York, conveying and transferring unto the said Farmers' Loan and Trust Company all and singular the line of the railroad then constructed, or authorized by law to be constructed, from Pekin, in Tazewell county, Illinois, through, or as near as practicable, to the towns of Fremont, Mackinac, Concord, Bloomington, Leroy, Mount Pleasant, Mahomet, Champaign, city of Urbana and St. Joseph, to the eastern boundary line of the State of Illnois, and including all railways, rights of way, depot grounds, and tracks, bridges, viaducts, culverts, fences and other structures, depots, station-houses, engine-houses and other buildings, and all machine shops, and all other real or personal estate that was then held or thereafter to be acquired by the said company for use in connection with the said line of railroad, together with the franchises
397 connected with or relating to the construction, maintenance and use of the said railroad, and also the tolls, income and

profits to be levied on the said property, the said conveyance being in trust upon certain conditions therein specified, for the purpose of securing the issue of two thousand bonds of $1,000 each, bearing semi-annual interest, payable at the office said Farmers' Loan and Trust Company in American gold coin.

And the said last named railroad corporation did proceed to issue, utter and put into circulation the entire issue of bonds provided for in said indenture and amounting to the sum of $2,000,000, and the entire amount of said issue of bonds still continues outstanding and unpaid by the said railroad corporation, which originally issued them, and its present successor, the Indianapolis, Bloomington and Western Railway Company, defendant.

And by articles of consolidation entered into between said Danville, Urbana, Bloomington and Pekin Railroad Company of Illinois, and the Indianapolis, Crawfordsville and Danville Railroad Company of Indiana, which bear date the 12th day of July, in the year 1869, and which were ratified by the board of directors and the stockholders of both said corporations, the said two last
398 named corporations consolidated their stock and property and became one corporation, called the Indianapolis, Bloomington and Western Railway Company.

Thereafter, on the 1st day of October, 1869, for the purpose of retiring the original issue of bonds made by the said Indianapolis, Crawfordsville and Danville Railroad Company to the amount of $1,500,000, and also the issue put into circulation by the Danville, Urbana, Bloomington and Pekin Railroad Company as aforesaid, amounting to $2,000,000, the Indianapolis, Bloomington and Western Railway Company, the said last named corporation, did under the authority of its board of directors, sign, seal, execute, acknowledge and deliver unto the defendant, the Farmers' Loan and Trust Company of the city of New York, as trustee, its said certain indenture of mortgage or trust deed, whereby it conveyed unto the said Farmers' Loan and Trust Company all and singular the railway of the said Indianapolis, Bloomington and Western Railway Company, extending from the city of Indianapolis, through Crawfordsville, Indiana, through Danville, Urbana and Bloomington, in the State of Illinois, to Pekin, being about two hundred and ten miles in length, with all its franchises, equipments, property and lands, tenements,
399 buildings, fixtures, machinery, goods and chattels, used in or connected with the operation of the said railway, including all rents, reservations, reversions of all nature and kind whatever, including all the property between the said terminals points which the said railway company then had, owned or possessed, or might thereafter acquire.

The said indenture being executed in trust solely and as security for the punctual payment of the principal and interest of the issue of 5,000 bonds, numbered from 1 to 5,000, bearing date the 1st day of October, 1869, payable to bearer in the city of New York on the 1st day of October, 1909, principal and interest being payable in gold, together

with semi-annual interest thereon, after the rate of seven per cent. per annum, evidenced by interest warrants or coupon obligations payable in the city of New York, on the first days of April and October of each year. The said Indianapolis, Bloomington and Western Railway Company proceeded to and did actually retire and singular the issue of $1,500,000 of the bonds of the Indianapolis, Crawfordsville and Danville Railroad Company hereinbefore mentioned, and issue in lieu and exchange thereof $1,500,000 of the issue of bonds secured by the said indenture of October 1st, 1869, and did also issue and put into circulation in the usual course of business, and for value, a further amount of $1,500,000 of said last issue of bonds, for the purpose of borrowing
400 money for the corporate use. Your orators are advised, and so charge, that no part of the issue of $2,000,000 of the Danville, Urbana, Bloomington and Pekin Railroad Company bonds hereinbefore specified was ever surrendered or exchanged for any portion of the bonds provided for by the indenture of October 1st, 1869, but that the entire amount of bonds issued under the provisions of said last named conveyance amount in the aggregate to $3,000,000, and no more, and that the remaining $2,000,000 of such issue is still in the custody of the Indianapolis, Bloomington and Western Railway Company and its agents and representatives, wholly unissued, and constitute no indebtedness of or lien upon the property of said corporation. Whether either of the said conveyances to the said Farmers' Loan and Trust Company were lawfully authorized to be made, and whether the said corporation could accept the same, and take the property thereby conveyed, your orators are not advised, but submit the question to the court.

Afterwards, to wit, on the 1st day of October, 1870, the said Indianapolis, Bloomington and Western Railway Company did, as thereto authorized by its charter and under the orders of the board of directors of said company, sign, seal, execute, acknowledge and deliver its certain other trust deed or mortgage, conveying unto William Dennison and Benjamin E. Smith as trustees for the
401 uses therein expressed all and singular the entire railway extending from Indianapolis westward to Pekin, with all its franchises, equipments, property, lands, tenements, buildings, fixtures, machinery, goods and chattels used in or connected with the operation of said railway, including all lands, reservations and reversions of every nature and kind whatever, including all the property between said terminal points which the said railway company then had or might thereafter acquire, the said conveyance being executed in trust and as security for the then contemplated issue of bonds to the amount of $1,500,000, called second mortgage bonds, intended by said corporation to be issued for the purpose of borrowing money for the equipment, operating and uses of said railway. The said indenture was duly recorded in the recorders' offices of the counties through which the said railway runs, both in the State of Indiana and the State of Illinois. And under the protection and

security of said indenture the said Indianapolis, Bloomington and Western Railway Company did proceed to utter and put into general circulation in the usual course of business and for value, its so-called second mortgage bonds, in the aggregate amounting to $1,500,000, dated on the 1st day of October, 1870, payable twenty years from date, bearing interest at the rate of eight per cent. per an-
402 num, evidenced by interest warrants, payable on the 1st days of January and July of each and every year. And the said $1,500,000 of second mortgage bonds still remain outstanding in the hands of divers persons and corporations, and still remain unpaid by the said railway company, and constitute an indebtedness against it to the full amount of the principal and the present unpaid interest thereupon.

On the sixteenth day of November, 1874, the said Indianapolis, Bloomington and Western Railway Company, by its president and secretary duly authorized, did sign, seal, execute, acknowledge, and deliver a certain trust conveyance or mortgage of all and singular its chattels and personal property, therein more specifically described, to the defendant, Joseph T. Thomas, embracing therein all and singular the personal property of every kind, character and description, in any manner belonging to the said corporation. The said trust mortgage being executed as security for the benefit, protection and payment of all and singular such creditors as held the notes, acceptances and obligations aforesaid, not included in the bonded issues hereinbefore described, but more specifically set out at large in said chattel mortgage.

And your orator would further show unto your honor that that
403 part of the Indianapolis, Bloomington and Western Railway Company which had formerly been owned by the Danville, Urbana, Bloomington and Pekin Railroad Company, was up to the time of the issue of the said 5,500 bonds secured by the said deed of trust to said Dennison and Turner, almost entirely devoid of all proper equipment and appurtenances; that from the funds raised by the sale and hypothecation of the said 5,500 bonds, a large amount of money was realized by the said railway company, and a large share of it, but how much your orator is unable to exactly state, was used in equipping that part of the line of the Indianapolis, Bloomington and Western Railway Company purchased from the said Danville, Urbana, Bloomington and Pekin Railroad Company

And your orators would further show unto your honor that the said bondholders, under said deed of trust, are in right and in equity entitled to a first and paramount lien upon all of the said equipment of the said Indianapolis, Bloomington and Western Railway Company, purchased with the funds realized as aforesaid.

And your orators would further show unto your honor that from the proceeds of the sale and hypothecation of the said 5,500 bonds issued by the said Indianapolis, Bloomington and Western Rail-
404 way Company for the equipment and construction of the said extension, and secured by the said deed of trust executed by

the said railway company, conveying said railroad property purchased from the Havana, Mason City, Lincoln and Eastern Railway Company to William Dennison and Robert Turner, or their successors and assigns, a large amount of money was diverted by the officers of the said Indianapolis, Bloomington and Western Railway Company and invested in equipment, property, fixtures, buildings, machinery, goods, and chattels, but principally in locomotive engines, and other rolling stock for the use and behalf of the original main line of the said Indianapolis, Bloomington and Western Railway Company. Your orator is not informed exactly as to the amount of money that was expended from the fund raised by the sale and hypothecation of the said 5,500 bonds upon the equipment of the main line, but is advised and believes that a million dollars and over was diverted to the use of the main line, and that a large amount of the locomotive engines, rolling stock, fixtures, buildings, and machinery upon the main line were bought or constructed from the funds realized as aforesaid; and your orator shows unto your honor, and so charges, that the
405 bondholder, holding bonds secured under the said deed of trust to said Dennison and Turner have a right and are entitled to a first and paramount lien upon all such rolling stock, equipments, buildings, fixtures and machinery.

And your orators would further show unto your honor that since the purchase by the said Indianapolis, Bloomington and Western Railway Company of the said railroad of the said Havana, Mason City, Lincoln and Eastern Railway Company, that all of the business of the said Indianapolis, Bloomington and Western Railway Company has been treated as an entirety; that the several lines in this way largely contributed to the business of the others, and that experience has shown that it is emphatically to the interest of each and all of them that the said railway lines be treated as a unit; that they should be operated together as a unit, and without any division or separation of the business. And your orators would further show unto your honors that the union of the different lines has been of that close character, and the funds realized out of the sale of the different issue of bonds has been expended so indiscriminately upon the whole property that it would be an almost impossible
406 undertaking to separate the lines and determine the respective interest of each division in the whole.

Your orators would further show unto your honor that it would be for the best interests of all concerned in the said railroad property, that when foreclosed and ordered for sale, that it should be sold as an entirety, under such equitable adjustment and arrangement as the court may determine and decree.

And your orators would further show unto your honor that the said Indianapolis, Bloomington and Western Railway Company made a default in the payment of the semi-annual installment of interest due on the first day of July, 1874, on the said 5,500 bonds issued by said railway company, and secured by the said deed of trust to Dennison and Turner; that such default occurred, although the

warrant and coupons representing such interest were presented and payment demanded at the office of the said company, and such default has continued, without the consent of the holders of such coupons, for more than six months, and that the interest maturing at such time, and all interest maturing since then upon said bonds, remains wholly due and unpaid, and that the said railway
407 company is utterly insolvent and unable to pay the same.

And your orators charge that on account of said default, that the whole of the principal of said 5,500 bonds, under the terms and provisions of the said deed of trust, has become due and payable.

And your orators would further show unto your honor that since the said company as aforesaid has defaulted in the payment of the said installment of interest upon said bonds, and has become utterly insolvent and never will be able to pay the said interest or any part thereof, and as the property itself is not now worth the amount of the principal sum secured thereon, that it is to the interest of all the persons holding the said 5,500 bonds that the said deed of trust or mortgage should now be foreclosed and the property sold for the benefit of the said bondholders, and therefore your orators pray that the said Indianapolis, Bloomington and Western Railway Company, the Farmers' Loan and Trust Company, Benjamin E. Smith, Joseph T. Thomas, Malcom C. Turner, Thomas C. Turner, Charles Turner, Archibald Turner, George W. Turner, and Joseph S. Decker, be made parties defendant hereto and be required to answer this your orator's bill, but not under oath, answer under oath being
408 hereby expressly waived, and that an account may be taken of what is due upon the said mortgage, and that the case may be referred to a master to determine what amount of the rolling stock and other equipment of the said main and the said Danville, Urbana and Bloomington line of the said railway company was purchased with funds arising from the sale or hypothecation of the said 5,500 bonds, and report thereupon his findings to the court, and that a decree may be entered for the foreclosure and sale of all the property conveyed by the said deed of trust or mortgage heretofore described and particularly set out, and all such property upon the other lines of said road, as the bondholders under the said deed of trust or mortgage have a first and paramount lien upon, and that all the right, title, and equity of redemption of the said Indianapolis, Bloomington and Western Railway Company in said property shall be foreclosed and sold for the profit of the bondholders for whom your orators are trustees as aforesaid shown, and that your orators for and in behalf of such *cestui que* trusts may have such other and further relief as equity may require and to your honor seems proper.

ROBERT TURNER.
CHARLES W. SMITH.

HENRY CRAWFORD, *Solicitor.*
McDONALD & BUTLER, *of Counsel.*

409 Here follows the petition of the Farmers' Loan and Trust Company for the removal of this cause to the United States Circuit Court for the District of Indiana, filed in said Circuit Court of Montgomery county, Indiana, on the 26th day of April, 1876:

410 *Petition for Removal to the Circuit Court of the United States.*

Your petitioner, the Farmers' Loan and Trust Company, the sole complainant in the said case, states that there is in the above suit a controversy in which the matter in dispute exceeds the sum or value of five hundred dollars, exclusive of costs; that it is a bill in equity filed for the foreclosure of two mortgages upon a railroad running through the States of Indiana and Illinois, and upon the rolling stock appurtenant thereto; one of said mortgages being for a principal debt of two millions of dollars, with large arrearages of interest on both of said mortgages, and that the said controversy involves among other things the validity of said mortgages, and the validity of a provision of the Constitution of the State of Illinois which declares that the rolling stock of railroads shall be deemed to be personal property, and liable to execution and sale like the personal property of individuals, which provision your petitioner is advised by counsel and verily believes to be contrary to the provisions of the Constitution of the United States, and the controversy arises therefore partly under the Constitution of the United States.

411 That your petitioner at the time of the commencement of the original suit was, and from thence hitherto has been and still is, a citizen of the State of New-York, and that each and every of the defendants of the amended and substituted bill of your petitioner was at the time of commencement of said original suit, and ever since has been and still is, a citizen of another and different State than the said State of New York; that the said cause is not now and never has been in a condition to be tried in this court, nor has the same been tried for the reasons that the defendants who are necessary parties are not as yet all in court, the issues have not been made up, or the evidence taken; that all the said defendants now are, were at the commencement of the original suit, and ever since have been citizens of the State of Indiana, except John B. Lee and Thomas Elder, who were at the time of the commencement of the original suit, ever since have been, and now are citizens of Illinois, and William Dennison and Benjamin E. Smith who were, at the time of the commencement of the original suit, ever since have been, and still are citizens of the State of Ohio, and except

412 Joseph T. Thomas, who was, at the time of the commencement of the original suit, ever since has been and still is a citizen of the State of Pennsylvania, and except Malcolm C. Turner, James Turner, Thomas E. Turner, Robert Turner, Geore M. Turner, and Joseph S. Decker, copartners, doing business under the name, firm, and style of Turner Brothers, each and every of whom

were at the time of the commencement of the original suit, ever since have been, and still are citizens of the State of New York, who who were complainants in the original bill, and who are not proper parties to this action, and against whom this petitioner has no controversy in this suit, but who are only nominal parties.

Your petitioner has reason to believe and does believe that, from prejudice and local influenee, it will not be able to obtain justice in this court. Your petitioner desires to remove this action, before the trial thereof, into the next Circuit Court of the United States to be held in the District of Indiana, at its next session, in pursuance of the law of the United States in such case made and provided; that your petitioner is ready and willing to give such good and
413 sufficient surety as this court may direct for its doing all acts and things required to be done by law upon such removal of this suit into the United States court; and it tenders herewith and files its bond in conformity to the law, conditioned that it will enter in said Circuit Court of the United States next to be held, on the first day of its session, copies of all processes, pleadings, depositions, testimony, and other proceedings in this suit, and that it will do such other appropriate acts as by the laws of the United States are required to be done on a removal of a cause into the United States court.

Wherefore your petitioner prays that this court will accept this petition and the bond herewith tendered, and that the said cause may be removed into said Circuit Court for the District of Indiana, and that no further proceedings may be had in this court.

And it will ever pray, &c.

STATE OF NEW YORK,
City and County of New York, } *ss:*

Roswell G. Rolston, being duly sworn, on his oath deposes and says that he has read the foregoing petition and knows its contents, and that the same is true so far as relates to his own acts
414 and the acts of the Farmers' Loan and Trust Company, and so far as it relates to others he believes it to be true; and deponent further says that he is the president of the said Trust Company; and that he has reason to believe and does believe that from prejudice and local influence the said company will not be able to obtain justice in the said court in the above entitled suit.

R. G. ROLSTON.

Subscribed and sworn before me at the city of New York this 21st day of April, A. D. 1876.

W. D. SEARLS, 76,
[L. S.] *Notary Public, New York County.*

WILLIAMS, BURR AND CAPEN,
Attorneys for Farmers' Loan and Trust Company.

Here follows the bond for the removal of said cause to the Circuit Court of the United States for the District of Indiana, filed in said Circuit Court of Montgomery county, on the 26th day of April, 1876:

415 STATE OF INDIANA, }
Montgomery County. }

In the Circuit Court, in Chancery.

MALCOLM C. TURNER and others
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY, THE FARMERS' LOAN AND TRUST COMPANY, and others.

THE FARMERS' LOAN AND TRUST COMPANY
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY and others.

Know all men by these presents, that the Farmers' Loan and Trust Company, as principal, and Robert E. Williams, A. C. Jennison, B. T. Ristine, George W. Parker, and J. A. Johnson, as sureties, are held and firmly bound unto the defendant in the above entitled suit, their heirs, successors, and assigns, in the sum of one thousand dollars lawful money, to the payment whereof we do hereby bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents. Sealed with our seals. Dated this 25th day of April, 1876.

Now, the condition of the above obligation is such that if the said Farmers' Loan and Trust Company shall enter in the Circuit Court of the United States for the District of Indiana, at its next
416 session to be held in the city of Indianapolis, in the said district, on the day of , a copy of the record in the above entitled cause, and shall well and truly pay or cause to be paid all costs that may be awarded by the said Circuit Court of the United States, if said court shall hold that said suit is wrongfully or improperly removed thereto, then this obligation to be void; otherwise to be and remain in full force and virtue.

In presence of THE FARMERS' LOAN AND TRUST COMPANY,
[L. S.]
By R. G. ROLSTON, *President.*
GEORGE W. PARKER.
ROBERT E. WILLIAMS.
J. AUGUSTUS JOHNSON.
A. E. JENNISON.
R. T. RESTINE.

Attest: GEORGE P. FITCH, *Secretary.*

417 And afterwards, to wit, at the May term of the said court, on the 16th day of May, A. D. 1876, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Come now the defendants Benjamin E. Smith and Joseph I. Thomas, by H. Crawford, Esq., their solicitor, and file their motion in writing to remand this cause, in the words following, to wit:

Benjamin E. Smith and Joseph T. Thomas appearing especially for the sole purpose of objecting to the jurisdiction of the court herein, move the court to remand this cause to the Circuit Court of Montgomery county, Indiana, where it was originally instituted, and for cause assign—

That this court has no jurisdiction of this cause.

That the said cause was irregularly and improperly removed from the Circuit Court of Montgomery county, Indiana.

BENJAMIN E. SMITH.
JOSEPH T. THOMAS.
By H. CRAWFORD,
Solicitor.

418 And afterwards, to wit, at the May term of said court, on the 21st day of July, A. D. 1876, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Henry Crawford, Esq., as attorney for Joseph I. Thomas and Benjamin E. Smith, having filed a motion to remand the same to the Montgomery Circuit Court for want of jurisdiction, and the court having considered the said motion, it is ordered that the same be and it is hereby overruled.

And afterwards, to wit, at the May term of said court, on the 22d day of July, 1876, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the Farmers' Loan and Trust Company by James E. Franklin, and files its motion in writing for an order vacating all orders heretofore made in this case for the payment of all claims for supplies and operating expenses.

419 And afterwards, to wit, at the May term of said court, in recess thereof, on the 11th day of October, 1876, the following further proceedings in the above entitled cause were had, to wit:

Comes now L. N. Andrews and Russell Elliott, special masters herein, and file their report of the receipts and earnings of the Indianapolis, Bloomington and Western Railway from November 18, 1874, to November 30, 1874, and at the same time also file their report of the operations of the receiver from the first of December, 1874, to the 30th of November, 1875, and at the same time also

file papers marked A, B, C, D, and E, showing respectively detailed monthly statements of earnings and expenses of the main line and extensions for the year ending November 30, 1875, and also detailed monthly statements of the earnings and expenses of the main line and extensions from December 1, 1875, to February 29, 1876, and financial exhibits from December 1, 1874, to February 29, 1876.

And said reports and exhibits are in the words following, to wit:

"To the Hon. Thomas Drummond, judge of the United States Circuit Court for the Districts of Illinois and Indiana.

We, the undersigned, appointed special masters by the De Witt Circuit Court of Illinois, and the Montgomery Circuit Court of Indiana, at the March and April terms of said courts, to examine
420 the reports and accounts of Geo. B. Wright, receiver of the Indianapolis Bloomington and Western Railway Company, and whereas the cases in said court having been transferred to the United States Circuit Courts for the districts of Illinois and Indiana, we hereby respectfully submit to said courts our report of the operations of said receiver from the first day of December, 1874, to the 30th day of November, 1875; also from December 1, 1874, to February 29, 1876, and the financial condition of said trust at that date.

Abstract "A" shows a detailed monthly statement of the earnings and expenses, "main line," for the year ending Nov. 30, 1875.

Abstract "B" shows a detailed monthly statement of the earnings and expenses on the "extension" for the same period.

Abstract "C" shows a detailed monthly statement of the earnings and expenses, "main line" and "extension," from December 1, 1875, to February 29, 1876.

Abstract "D" financial exhibit from December 1, 1874, to November 30, 1875.

Abstract "E" financial exhibit from December 1, 1875, to February 29, 1876.

For the purpose of condensing their report, your masters
420 have classified the different accounts under the following headings:

1. Conducting Transportation.
2. Motive Power.
3. Maintenance of Way.
4. Maintenance of Cars.
5. General Expenses.
6. Miscellaneous.
7. Main't of Western Car Co.'s Cars and Rental.
8. Peoria Bridge and Track Rent.
9. New Work and Equipment.
10. Right of Way.

The first includes all expenditures relating to the procuring and forwarding of freights and passengers, rent of and repairs of stations, buildings, &c.

The second includes all expenditures relating to the running and

repairs of locomotives, repairs of shops, tools, engine houses, machinery, &c., &c.

The third includes all expenditures relating to the repairs and renewals of tracks, road-bed, masonry, bridges, fences, telegraphs, &c.

The fourth includes all expenditures relating to the repairs and running of cars, car shops and sheds.

The fifth includes all expenditures for salaries of general officers, office expenses, legal expenses, taxes, interest, insurance, &c.

The sixth includes all matters not properly belonging to the five previous accounts.

The seventh includes all expenditures for rents and maintenance of Western Car Co.'s cars.

421 The eighth includes all expenditures relating to the Peoria bridge and rent of track between Pekin and Peoria and at Indianapolis, including Union Depot privileges.

The ninth includes all expenditures relating to building new station houses, sleeping cars and chair cars.

The tenth includes all expenditures relating to the purchase of right of way.

The earnings of the "main line" from December 1st, 1874, to November 30th, 1875, were as follows:

Freights	$709,470 82
Passengers	360,035 60
Express	8,279 22
Mail	37,135 00
Miscellaneous	69,670 11
Total	1,184,590 75

The above shows earnings per mile of road of $5,864.31.

Earnings on extension from December 1, 1874, to November 30 1875:

Freight	$96,461 97
Passenger	49,537 67
Express	936 59
Mail	5,402 00
Total	152,338 23

Which shows earnings per mile of road to have been $1,154.07.

The expenses on "main line" from December 1, 1874, to November 30, 1875, were as follows:

	Conducting transportation	$242,096 68
422	Motive power	272,981 26
	Maintenance of way	496,896 88
	Maintenance of cars	117,307 91
	General expense	74,509 30
	Miscellaneous	2,529 71

Main't. of Western Car Cos. and rental.	136,620 79
Peoria bridge and track rent.	60,197 61
New work and equipment.	14,561 44
Right of way.	17,003 02
Total	1,434,704 60

The above shows expenses per mile of road of $7,102.49, or a deficit of $1,248.09 per mile.

Expenses on "extension" from December 1st, 1874, to November 30th, 1875:

Conducting transportation	$29,366 10
Motive power	48,593 57
Maintenance of way.	36,383 95
Maintenance of cars.	6,939 44
General expense.	13,341 97
Miscellaneous.	73 92
Maint. of Western Car Co.'s cars and rental	17,189 31
New work and equipment	1,800 00
Right of way	2,689 59
Total	156,377 85

Showing expenses per mile of road of $1,184.68, or a deficit of $30.61 per mile.

Earnings "main line" from December 1st, 1875, to February 29th, 1876, compared with 1874–'5:

	1875–6.	1874–5.	Increase.	Decrease.	Per cent.
423 Freight	251,662 94	177,357 74	74,305 20		41.89
Passenger	59,110 93	94,536 53		5,425 60	60
Express	1,948 59	2,009 88		61 29	3.14
Mail	9,283 75	9,283 75			
Miss	18,379 55	15,771 78	2,607 77		16.53
	370,385 76	298,959 68	71,426 08		23.89

The above shows earnings per mile of road in 1875–6 of $1,833.59, and in 1874–5 of $1,479.99, an increase of $353.60 per mile, or $23\frac{29}{100}$ per cent.

Earnings on "Extension" from Dec. 1st, 1875, to Feb. 29, 1876, compared with 1874–5:

	1875–6.	1874–5.	Increase.	Decrease.	Per cent.
Freight	35,367 65	23,225 07	12,142 58		52.28
Passenger	15,170 10	13,646 92	1,523 18		11.16
Express	286 94	164 74	122 20		74.17
Mail	1,350 50	1,350 50			
	52,175 19	38,387 23	13,787 96		35 91

The above shows earnings per mile of road in 1875–6 of $395.26, and in 1874–5 of $290.81, an increase of $104.45 per mile, or $35\frac{91}{100}$ per cent.

Expenses "Main Line" from December 1st, 1875, to February 29, 1876, compared with 1874–5:

	1875–6.	1874–5.	Increase.	Decrease.	Per cent.
Cond. transp't.	73,754 80	61,488 75	12,266 05		19.95
Motive power	85,714 13	72,047 25	13,666 88		18.96
Maint. of way	68,953 67	57,855 38	11,098 29		19.18
Maint. of cars	15,190 87	24,876 35		9,685 48	63.75
Gen'l expenses	15,891 03	19,408 24		3,517 21	22.13
Miscellaneous	911 05	1,094 46		183 41	20.13
Maint. of W. C. Co. cr. rent'l.	46,529 26	17,625 00	18,904 26		163.99
Peoria Bridge and tr'k rent.	12,356 94	16,869 64		4,512 70	36.52
New work and equip't	4,573 15	1,236 37	3,336 78		269.88
Right of way	1,700 95		1,700 95		
	325,575 85	272,501 44	53,074 41		19.47

424 Showing expenses per mile of road in 1875–6 of $1,611.76, and in 1874–5 of $1,349.01, an increase of $262.75 per mile, or $19\frac{47}{100}$ per cent.

Expenses of extension from Dec. 1, 1875, to February 29, '76, compared with 1874–5:

	1875–6.	1874–5.	Increase.	Decrease.	Per cent.
Cond. transp't.	10,103 72	7,277 20	2,826 52		38.84
Motive power	13,626 35	14,963 93		1,337 58	9.81
Maint. of way	7,382 44	7,791 36		408 92	5.53
Maint. of cars	2,632 24	1,079 59	1,552 65		143.81
Gen'l expense	2,997 10	4,155 59		1,158 49	38.65
Miscellaneous		63 49		63 49	
Car rental	5,690 73	5,175 20	515 53		9.96
Right of way	2,363 59	600 00	1,763 59		293.93
	44,796 17	41,106 36	3,689 81		8.97

Which shows expenses per mile of road in 1875 of $339.36, and in 1874–5 of $311.41, an increase of $27.95 per mile, or 8.97 per cent.

425 The following statement will more clearly show the earnings and operating expenses and amount chargeable to income account but not chargeable to operating expenses from Dec. 1, 1874, to Feb. 29, 1876:

EARNINGS "MAIN LINE."

Freight	961,133 76
Passenger	449,146 53
Express	10,227 81
Mail	46,418 75
Miscellaneous	88,049 66
Total	1,554,976 51

OPERATING EXPENSES, "MAIN LINE."

Conducting transportation	315,851 48
Motive power	319,362 59
Maintenance of cars	120,139 90
" " way	242,630 85
General expenses	72,622 00
Miscellaneous	3,440 76
Taxes	17,778 33
Total	1,091,825 91

Chargeable to income account, but not chargeable to operating expenses:

Extraordinary repairs to motive power	39,332 80
" " " cars	43,818 93
" " " road	323,219 70
Car rental	151,690 00
Rent of track and Peoria Bridge	72,554 55
New work and equipment	19,134 59
Right of way	18,703 97
	668,454 54
Total expenses	1,760,280 45

426 From the above it will be seen that the amount of earnings absorbed by operating expenses was $70\frac{22}{100}$ per cent. "Main Line."

EARNINGS "EXTENSION."

Freight	$131,829.62
Passenger	64,707.77
Express	1,223.53
Mail	6,752.50
Total	$204,513.42

OPERATING EXPENSES "EXTENSION."

Conducting transportation	39,469.82
Motive power	49,721.92

Maintenance of cars	9,571.68
do way	43,766.39
General expenses	16,195.57
Taxes	143.50
Miscellaneous	73.92
Total	158,942.80

CHARGEABLE TO INCOME ACCOUNT BUT NOT OPERATING EXPENSES "EXTENSION."

Rent of locomotives	12,498.00
do cars	22,880.04
New work	1,800.00
Right of way	5,053.18
Total	42,231.22
Total expenses	201,174.02

Amount of earnings absorbed by operating expenses $77\frac{72}{100}$ per cent.

427 RECAPITULATION.

Earnings "main line" Dec. 1, '74, to Feb. 29, '76	$1,554,976.51
Earnings "extension" Dec. 1, '74, to Feb. 29, '76	204,513.42
Total	1,759,489.95
Expenses "main line" Dec. 1, '74, to Feb. 29, '76	1,760,280.45
Expenses "extension" Dec. 1, '74, to Feb. 29, '76	201,174.02
Total	1,961,454.47
Excess of expenditures over earnings Feb. 29, 1876	201,964.54

The above shows a deficit of expenses over earnings on "main line" of $205,303.94, and a surplus of earnings over expenses on the extension of $3,339.40.

The excess of expenditures over earnings which occurred in last year was caused by the floods of last summer, and principally from the fact that the road-bed had deteriorated to such an alarming extent that expensive repairs were absolutely necessary in order to avoid serious accidents. There were placed in the roadway from Dec. 1, 1874, to Feb. 29, 1876, $5,984\frac{262}{2240}$ tons new and re-rolled iron costing $225,804.20; $507\frac{370}{2240}$ tons steel rail at a cost of
428 $32,349.59; 147,094 cross ties at costing $53,045.85, and 628,849 pounds spikes, bolts and fish bars at a cost of $19,941.99. Total $331,231.63, which has been charged to repairs of track.

There was paid during the same period by the receiver for legal

services to J. B. Cohrs, Pekin, $500.00; H. Crawford, Chicago, $5,500.00; R. G. Ingersoll, Peoria, $800.00; Ingersoll & Puterbaugh, Peoria, $1,551.10; G. W. Gere, Champaigne, $85.00; Harrison, Hines & Miller, Indianapolis, $510.00; Wetmer & Junner, New York, $250; Alexander Green, New York, $50.00, and Robert Harris, Chicago, $500.00. Total, $9,746.10, which has been charged to legal expenses.

The following statement will show the financial results of the operation of the receiver from December 1st, 1874, to February 29th, 1876, and the condition of the profit and loss or income account at the latter date.

LIABILITIES.

Receiver's certificate outstanding	154,800.00
Am't due for current expenditures	226,560.88
do other R. R. Co.'s	39,465.62
Miss. liabilities, "I. B. & W."	6,939.46
Total liabilities	$427,765.96

ASSETS.

Cash in hands of cashier	65,012.93
do do do paymaster	5,103.75
Supplies on hand	36,951.86
Am't. due from station agents	46,175.35
do do do other R. R. Co.'s	23,531.39
Miss. assets	49,026.14
	$225,801.42
429 Excess liabilities over assets, representing the deficiency before referred to	$201,964.54

Your masters have examined the books and all the pay-rolls and vouchers of the receiver for the period embraced in the report, and find that careful and accurate accounts have been kept and proper vouchers taken for all money disbursed, and respectfully recommend the approval of all the reports of the receiver.

They also find that the receiver has properly charged himself with $103,132.18, amount realized from the assets of the company, prior to his assuming control of the property, and has taken credit for amounts paid out on account of balances and pay-rolls, &c., amounting to $96,172.72, leaving balance of $6,939.46, as shown by "Miscellaneous Liabilities."

Since our appointment as masters we have passed over the entire line of the road, and found the track very much improved and the property generally in good condition and well cared for. All of which is respectfully submitted.

L. N. ANDREWS,
RUSSELL ELLIOTT,
Special Masters.

430 *Statement "A."*—INDIANAPOLIS, BLOOMINGTON

EARNINGS.	1874. DEC'R.	1875. JAN'Y.	FEB'Y.	MARCH.	APRIL.
Freight	$57,941 07	$64,642 11	$54,774 56	$57,103 71	$56,769 88
Passengers	38,525 01	30,039 05	25,972 47	30,832 21	26,628 56
Express	938 62	570 73	500 53	577 79	815 43
Mail	3,094 58	3,094 58	3,094 59	3,094 58	3,094 58
Miscellaneous	8,283 41	4,154 48	3,333 89	3,805 83	2,890 63
Total	$108,782 62	$102,500 95	$87,676 04	$95,414 12	$90,199 08
EXPENSES.					
Advertising	$389 42	$392 54	$450 82	$75 00	$462 18
Agencies Foreign Passengers	.....	.....	.....	.....	100 00
do do Freight	518 16	566 50	904 23	50 32	543 32
Maint. of Buildings	240 95	540 31	271 86	63 00	115 50
" Bridges	2,602 34	1,527 42	1,159 05	1,633 58	2,108 65
Cond'rs, Bag'e M. and Brakemen	7,742 22	7,683 11	7,754 25	7,351 05	6,601 76
Maint. of Cars	8,064 12	7,079 50	9,667 59	9,662 74	13,985 69
Car Rental	17,625 00	.....	.....	9,426 85	5,000 00
Damage to Persons and Baggage	73 90	289 50	311 80	737 92	190 25
Engineers and Firemen	7,440 90	7,746 60	7,553 10	8,448 30	7,109 80
Engine Houses M. S. & T. T. Ex. & Reps	632 48	712 89	584 96	340 00	172 61
Fuel and Water Stations	1,582 20	1,385 11	1,515 22	1,359 67	1,262 97
Maint. of Fences	24 84	.....	.....	5 00	161 85
Fuel for Locomotives	4,883 17	7,267 11	7,330 70	6,754 50	4,266 27
General Expenses	3,812 44	3,374 74	3,381 95	3,605 43	3,321 15
Insurance	1,377 50	120 00	120 00	5 00	.....
Maint. of Motive Power	8,582 93	7,836 85	6,993 03	9,138 30	8,485 87
Loss and Damage—Freight	65 18	185 78	199 35	.....	446 64
Legal Expenses	1,107 07	1,415 37	661 37	606 07	340 19
Printing and Stationery	801 10	580 01	333 95	582 30	578 64
Peoria Bridge	213 00	155 00	155 00	197 00	245 00
Maint. of Road	18,137 22	14,563 01	19,841 45	22,817 92	26,830 69
Station Service	5,740 43	6,964 85	7,571 21	6,365 07	6,229 86
Stock Killed	337 52	189 56	107 69	173 82	281 49
Train Service	1,964 25	3,058 87	992 72	1,088 85	1,008 83
Telegraph Service	1,752 70	1,769 30	1,577 82	1,704 22	1,685 77
Maint. of Telegraph	125 00	131 95	125 00	125 00	109 00
Track Rent	5,448 88	5,448 88	5,448 88	5,448 88	5,482 22
Grigg's House, Repairs of	24 42	8 98	.....	5 59	12 12
Profit and Loss	65 14	.....	.....	.....	.....
Taxes	.....	.....	3,322 54	5,571 28	1,881 43
Sleeping Cars	81 17	117 16	553 27	747 02	264 34
Miscellaneous	146 63	262 38	652 05	463 32	233 50
New Work	.....	484 77	.....	.....	.....
Mail Service	.....	.....	500 00	.....	.....
New Equipment	.....	.....	.....	.....	450 00
Right of Way	.....	.....	.....	.....	1,819 13
Chair Cars	.....	.....	.....	.....	.....
Maint. of West'n Car Co.'s Cars	.....	.....	.....	.....	.....
Freight Correction Account	.....	.....	.....	.....	.....
Interest and Discount	.....	.....	.....	.....	.....
Passenger Correction Account	.....	.....	.....	.....	.....
Indianola Round House	.....	.....	.....	.....	.....
	$101,602 33	$81,858 25	$90,040 86	$104,553 00	$97,586 68

AND WESTERN RAILWAY CO.—"MAIN LINE."

MAY.	JUNE.	JULY.	AUG'T.	SEPT.	OCTOBER.	NOV'R.	TOTAL.
$46,959 58	$39,450 37	$41,999 73	$53,533 19	$75,145 91	$76,974 20	$84,176 51	$709,470 82
24,709 83	26,355 54	25,319 01	28,412 17	41,954 38	34,154 64	27,132 73	360,035 60
700 63	677 69	636 07	620 35	707 98	793 73	739 67	8,279 22
3,094 59	3,094 58	3,094 58	3,094 59	3,094 58	3,094 58	3,094 59	37,135 00
3,618 85	4,048 86	5,774 32	6,268 21	6,893 22	8,685 30	11,913 11	69,670 11
$79,083 48	$73,627 04	$76,823 71	$91,928 51	$127,796 07	$123,702 45	$127,056 61	$1,184,590 75
$274 15	$442 51	$652 42	$588 05	$460 35	$587 42	$399 20	5,174 06
125 00	.....	18 90	165 00	140 00	140 00	140 00	828 90
941 31	426 41	530 35	604 61	593 07	2,111 24	140 45	7,930 87
7 50	1,196 27	448 45	577 21	517 36	208 81	403 39	4,590 61
2,592 15	1,604 95	1,726 52	3,421 54	3,137 06	3,040 15	7,332 87	31,886 33
6,691 63	5,339 53	5,344 20	5,765 05	6,892 60	6,693 77	6,692 58	80,551 75
12,458 06	19,132 43	10,741 99	8,381 55	6,490 30	5,821 23	5,622 31	117,107 47
.....	.....	.....	.....	11,640 00	11,630 00	11,630 00	66,951 85
682 80	68 00	279 20	496 30	133 60	59 50	.....	3,322 77
7,255 40	5,936 85	6,097 20	6,885 55	8,341 25	7,758 45	7,647 10	88,220 50
46 66	139 27	70 77	1,096 27	99 59	594 88	574 58	5,064 96
1,849 34	1,259 34	988 94	988 98	920 79	1,003 02	886 14	15,001 72
294 67	.....	.....	.....	.....	.....	.....	486 36
4,819 49	4,501 88	4,842 10	5,650 52	7,239 95	6,673 65	6,621 97	70,851 31
3,513 82	4,403 88	3,044 48	3,526 47	2,801 90	2,921 98	3,308 79	41,017 23
.....	.....	105 00	.....	.....	.....	.....	1,727 50
6,846 81	6,754 03	6,860 82	8,903 04	7,672 65	9,310 81	6,290 72	93,675 86
921 58	517 79	986 67	674 05	250 87	2,116 81	189 83	6,554 55
1,686 81	4,247 70	111 35	116 25	413 25	422 00	124 10	11,257 53
1,025 26	677 88	455 17	561 18	475 15	530 10	587 62	7,188 99
95 16	.....	.....	.....	.....	.....	.....	1,060 16
52,574 19	45,407 76	67,339 65	106,046 41	33,566 80	33,670 53	23,728 56	404,524 19
5,193 20	5,460 56	5,486 31	4,498 74	4,621 43	6,207 52	6,922 40	71,261 58
648 02	805 07	531 90	464 85	1,174 87	1,739 12	133 95	6,587 86
816 86	1,229 01	1,635 01	1,080 28	1,215 86	1,657 87	1,621 55	17,369 96
1,519 62	1,678 15	1,625 60	1,728 22	1,767 18	1,825 12	1,686 64	20,320 24
105 00	145 00	129 70	117 00	133 30	139 00	172 15	1,557 10
1,282 22	3,397 58	3,838 79	12,926 71	5,160 50	4,957 03	4,496 88	59,137 45
74 85	96 82	5 05	2 00	166 50	37 75	14 45	448 33
.....	.....	.....	.....	.....	.....	135 30	200 44
.....	.....	1,324 33	237 16	5,288 10	153 49	.....	17,778 33
776 94	35 02	124 07	326 72	1,027 46	349 56	790 77	5,193 50
47 40	261 60	14 50	.....	.....	.....	.....	2,081 38
18 00	640 70	444 73	.....	745 58	383 33	383 34	3,100 45
.....	.....	.....	.....	.....	.....	.....	500 00
200 00	200 00	200 00	200 00	200 00	200 00	200 00	1,850 00
.....	.....	.....	317 50	9,504 87	5,350 97	10 55	17,003 02
.....	4,254 44	.....	.....	10 01	153 04	.....	4,417 49
.....	9,244 36	14,726 27	9,359 12	29,769 29	2,799 74	3,770 16	69,668 94
.....	.....	3,957 04	1,268 57	1,737 51	1,887 44	742 16	9,592 72
.....	.....	22 18	199 70	1,075 00	.....	.....	1,296 88
.....	.....	.....	.....	.....	.....	202 55	202 55
.....	.....	.....	.....	.....	.....	166 91	166 91
$115,383 80	$129,504 79	$144,709 66	$187,175 23	$155,334 90	$123,135 33	$103,769 77	$1,414,704 60

EARNINGS.	1874. DEC.	1875. JAN.	FEB'Y.	MAR.	APRIL.	MAY.	JUNE.	JULY.	AUG'T.	SEPT.	OCT.	NOV.	TOTAL.
Freight	$8,015 09	$9,640 91	$5,569 07	$7,753 95	$8,570 35	$6,855 51	$4,471 44	$5,692 09	$9,665 85	$11,098 34	$9,444 23	$9,685 14	$96,461 9
Passenger	5,404 96	4,182 38	3,999 58	4,446 78	3,575 09	3,211 17	3,604 01	4,164 82	4,843 95	4,347 79	3,840 53	3,856 61	49,537 67
Express	64 70	51 17	48 87	43 92	81 49	94 07	85 53	90 04	66 91	92 06	118 66	99 17	936 59
Mail	450 17	450 17	450 17	450 17	450 17	450 16	450 17	450 17	450 16	450 17	450 17	450 16	5,402 00
	$13,994 92	$14 324 63	$10,067 68	$12,694 82	$12,677 10	$10,610 91	$8,611 15	$10,397 12	$15,026 87	$15,988 36	$13,853 59	$14,091 08	152,338 23
OPERATING EXPENSES.													
Advertising		11 25	9 37	25 00	50 75	58 96							96 37
Agencies Foreign Freight				4 28	2 75		10 55	16 03	14 91	6 85	1 45	6 17	122 53
Maint. of Buildings		239 62			3 00		9 79	26 42	4 50	10 25		45 00	338 58
" Bridges				300 43		165 00	22 29	10 60	85 80	53 84	187 65	86 63	912 24
Cond., B'ge Masters and Brakemen	1,104 25	856 10	766 20	948 80	878 03	914 27	715 55	756 15	771 00	787 55	762 20	768 72	10,028 82
Maint. of Cars	363 28	330 55	385 76	282 42	627 55	218 99	821 80	787 52	869 61	747 55	772 56	731 85	6,939 44
Damage to Persons and Baggage												71 50	71 50
Engineers and Firemen	1,757 60	2,017 30	1,876 90	1,104 65	942 25	919 35	928 95	904 20	873 02	952 70	987 05	889 65	14,153 62
Engine Houses, M. S. T. T. Ex. & Rep.									79 34	13 72	70 00	64 25	227 31
Fuel and Water Stations	282 60	250 00	250 00	328 05	274 00	250 06	252 74	310 60	270 99	312 78	277 35	271 75	3,330 32
Fuel for Locomotives	1,331 00	1,427 00	1,372 00	1,032 55	1,265 00	865 50	644 50	569 14	795 25	779 00	1,046 35	1,276 00	12,403 29
General Expenses	1,149 80	1,346 12	1,423 60	1,031 78	1,042 07	1,004 66	1,141 57	807 03	1,038 62	816 44	864 71	869 05	12,562 45
Maint. of Motive Power	1,559 63	1,509 38	1,331 12	1,745 52	1,505 29	2,380 36	1,469 72	1,324 04	1,505 82	1,373 21	1,239 84	1,535 10	18,479 03
Loss and Damage Freight					19 44	5 30	20 75	2 22		2 32		23 85	73 88
Legal Expenses	30 06	30 03	32 48	30 93	96 71	56 25	31 25	31 25	44 00	42 75	39 75	40 30	505 76
Printing and Stationery	265 20	211 65	182 90	194 08	202 23	316 47	104 43	120 36	154 99	146 76	105 13	126 06	2,130 26
Maint. of Road	3,112 94	2,479 42	2,199 00	2,464 39	3,123 00	3,068 71	2,927 49	3,073 70	3,660 81	3,219 98	3,114 78	3,027 49	35,471 71
Station Service	1,059 20	735 87	766 68	626 60	787 15	543 28	562 07	710 80	1,015 72	900 05	915 13	904 39	9,527 54
Stock Killed	257 68	5 97	48 06	73 93	47 93	18 65	209 31	30 43	5 20	32 89	70 75	6 30	807 10
Train Service	24 38	62 15	17 46	137 30	206 32	159 48	147 14	173 34	178 95	217 45	297 06	299 95	1,920 98
Telegraph Service	213 75	94 88	239 58	348 08	307 08	274 00	279 65	284 58	295 99	311 25	312 17	330 81	3,291 82
Maint. of Telegraph	35 00	35 00	35 00	35 00	35 00	35 00	35 00	36 80	35 00	38 50	43 00	35 00	433 30
Taxes	143 50												143 50
Miscellaneous	57 37	6 12		10 43									73 92
Use of Cars	1,808 23	2,028 29	1,338 68	1,322 88	1,295 93	1,540 97	980 50	1,087 85	1,439 03	1,462 89	1,504 10	1,379 96	17,189 31
New Work		300 00	300 00	300 00	300 00	300 00	300 00						1,800 00
Right of Way											2,689 59		2,689 59
Freight Corrected Aecount												653 68	653 68
	$14,554 87	$13,976 70	$12,574 79	$12,347 10	$13,011 48	$13,095 26	$11,615 65	$11,063 06	$13,138 55	$12,228 73	$15,300 62	$13,471 04	156,377 85

432 *Statement Marked "C."*

Indianapolis, Bloomington & Western Railway Co., Main Line.

Earnings.	1875. December.	1876. January.	February.	Total.
Freight	82,316 76	80,665 49	88,680 69	251,662 94
Passengers	31,898 77	28,471 17	28,740 99	89,110 93
Express	757 98	601 98	588 63	1,948 59
Mail	3,094 58	3,094 58	3,094 59	9,283 75
Miscellaneous	8,027 53	5,610 01	4,742 01	18,379 55
	126,095 62	118,443 23	125,846 91	370,385 76

Expenses.	1875. December.	1876. January.	February.	Total.
Advertising	280 93	503 75	487 77	1,272 45
Agencies, foreign passenger	140	165	200	505
" " freight	527 69	656 74	1,345 33	2,529 76
Maint. of buildings	981 96	483 50	590 59	2,056 05
" " bridges	4,423 32	6,158 58	3,873 13	14,455 03
Conductors, baggagemen & brakemen	7,405 65	7,782 30	8,530 20	23,718 15
Maint. of cars	6,423 25	3,647 59	5,120 03	15,190 87
Car rental	11,630	11,630	11,630	34,890
Damage to persons & baggage	276 10	212 90	154 05	643 05
Engineers and firemen	8,509 50	8,723 35	9,219 95	26,452 80
Engine houses, M. S. & T. T. Ex. & Reprs. of	413 55	113 39	129 16	656 10
Fuel and Water Stations Ex. and Reprs. of	1,123 07	1,348 19	1,138 97	3,610 23
Fuel for Locomotives	8,155 56	8,185 92	8,915 32	25,256 80
General Expenses	3,533 81	3,343 02	3,442 04	10,318 87
Insurance	1,994 35	120	60	2,174 35
Maint. of Motive Power	8,366 06	6,868 69	8,582 93	23,817 68
Loss & damage freight	99 55	101 47	1,075 04	1,276 06
Legal Expenses	189 90	202 40	1,187 50	1,579 80
Printing & Stationery	630 56	738 90	824 99	2,194 45
Maint. of Road	12,756 44	28,931 81	12,810 39	54,498 64
Station Service	6,509 47	4,713 18	6,709 53	17,932 18
Stock killed	1,849 83	442 56	331 56	2,623 95
Train Service	1,338 72	2,013 62	1,354	4,706 34
Telegraph Service	1,756 68	1,837 34	1,693 97	5,287 99
Maint. of Telegraph	118 75	118 55	116 35	353 65
Track Rent	4,025 25	3,619 10	4,712 59	12,356 94
Grigg's House, reprs of	17 45	5 85	50	73 30
Sleeping Cars	116 50	363 76	66 94	547 20
Miscellaneous	556 50	263 85	17 40	837 75
New Equipment	200	200	3,200	3,600
Right of Way	1,000	154 30	546 65	1,700 95
Chair Cars		381 46	44 49	425 95
Maint. Wes't "Car Co." Cars	5,390 26	2,899 91	3,349 09	11,639 26
Feight Correction Account	2,605 82	1,519 50	3,812 55	8,037 87
Interest & Discount	638 36	674 55	310 65	1,623 56
Passenger Correction Account	228 40	279 20	304 70	812 30
Indianola Round House	4,596 49	854 17	469 86	5,920 52
	108,909 73	110,258 40	106,407 72	325,575 85

433 Indianapolis, Bloomington and Western Railway Co., Extension.

EARNINGS.	1875 December.	1876. January.	February.	Total.
Freight	8,731 74	11,148 06	15,487 85	35,367 65
Passenger	5,418 97	4,757 30	4,993 83	15,170 10
Express	118 13	95 75	73 06	286 94
Mail	450 17	450 17	450 16	1,350 50
	14,719 01	16,451 28	21,004 90	52,175 19

EXPENSES.	1875. December.	1876. January.	February.	Total.
Agencies foreign freight	39 95	135 96	192 91	368 82
Maint. of buildings	11 25	236 32	16 80	264 37
" " bridges	106 45	235 16	80 68	422 29
Conductor, baggagemen and brakemen	902 50	910	1,147 85	2,960 35
Maint. of cars	911 69	815 46	905 09	2,632 24
Engineers and firemen	1,061 80	1,055 05	1,332	3,451 85
Engine Houses M. S. & T. T. ex. & rep'rs of	90 12	28 41	9 69	128 22
Fuel and water station	332 15	286 66	267 90	886 71
Fuel for locomotives	1,736 80	1,262 80	1,478 52	4,478 12
General expenses	1,000 05	887 40	942 20	2,829 65
Maint. of motive power	1,517 75	1,588 80	1,574 90	4,681 45
Loss and damage freight	3 94	.....	5 10	9 04
Legal expenses	55 10	52 10	60 25	167 45
Printing and stationery	107 52	102 59	154 04	364 15
Maint. of road	2,286 25	2,352 95	2,320 95	6,960 15
Station service	1,056 24	975 85	1,082 09	3,114 18
Stock killed	25 69	80 58	30 69	136 96
Train service	267 05	322 90	414 10	1,004 05
Telegraph service	358 13	354 47	293 27	1,005 87
Maint. of telegraph	35	35	35	105
Right of way	.....	2,346 09	17 50	2,363 59
Freight correction account	717 31	46 06	7 56	770 73
Use of cars	1,463 50	1,846 29	2,380 94	5,690 73
	14,086 24	15,959 90	14,750 03	44,796 17

434 *Statement Marked "D."*

Indianapolis, Bloomington and Western Railway Co., Financial Exhibit, November, 1875.

1875.			
Nov. 30—To cash in hands of C. F. Smith, cashier	68,119 91		
To cash in hands of C. F. Smith, paymaster	4,134 86		
		72,254	77
To supplies on hand for current operations		22,056	83
To amount due from station agents		47,143	96
To amount due from other railroad companies		30,005	33
To miscellaneous assets		54,278	32

Operating expenses main line, 12 mos. ending Nov. 30th, 1875:		
Conducting transportation	242,096 68	
Motive power	272,981 26	
Maintenance of way	496,896 88	
" " cars	117,307 91	
General expenses	74,509 30	
Maint. of Western Car Co.'s cars and rental	136,620 79	
Peoria bridge and track rent	60,197 61	
New work and equipment	14,561 44	
Right of way	170,03 02	
		1,434,704 60
Operating expenses extension, 12 mos. ending Nov. 30th, 1875:		
Conducting transportation	29,366 10	
Motive power	48,593 57	
Maintenance of way	36,383 95	
" " cars	6,939 44	
General expenses	13,341 97	
Miscellaneous	73 92	
Maint. of Western Car Co.'s cars and rental	17,189 31	
New work and equipment	1,800 00	
Right of way	2,689 59	
		156,377 85
Balance		254,153 47
		2,070,975 13
1875.		
Nov. 30—By receiver's certificates		201,500 00
Amount due for current expenditure in November, 1875, and prior		197,399 20
By amount due other railroad companies		49,395 95
By miscellaneous liabilities "I., B. & W."		31,597 53
By earnings main line, for 12 mos. ending November 30th, 1875:		
Freight	709,470 82	
Passenger	360,035 60	
Express	8,279 22	
Mail	37,135 00	
Miscellaneous	69,670 11	
		1,184,590 75

By earnings "extension" for 12 mos. ending November 30th, 1875:		
Freight	96,461 97	
Passenger	49,537 67	
Express	936 59	
Mail	5,402 00	
		152,338 23
Excess expenditures over earnings, "main line."		250,113 85
Excess expenditures over earnings, "extension."		4,039 62
		2,070,975 13

435 *Statement Marked "E."*

Indianapolis, Bloomington and Western Ry. Co., Financial Exhibit, February, 1876.

1876, Feb. 29.

To balance December 1st, 1875		254,153 47
Cash in, hand C. F. Smith, cashier	65,012 93	
" " C. F. Smith, paymaster	5,103 75	
		70,116 68
Amount due from station agents		46,175 35
Supplies on hand for current operations		36,951 86
Amount due from other railroad co's.		23,531 39
Miscellaneous assets		49,026 14
Operating expenses main line, 3 mos. ending February 29, 1876:		
Conducting transportation	73,754 80	
Motive power	85,714 13	
Maint. of way	68,953 67	
Maint. of cars	15,190 87	
General expenses	15,891 03	
Miscellaneous	911 05	
Maint. of West'n Car Co. cars & rental	46,529 26	
Peoria bridge and track rent	12,356 94	
New work and equipment	4,573 15	
Right of way	1,700 95	
		325,575 85
Operating expenses "extension" 3 mos. ending February 29, 1876:		
Conducting transportation	10,103 72	
Motive power	13,626 35	
Maint. of way	7,382 44	
Maint. of cars	2,632 24	
General expenses	2,997 10	

Maint of West'n Car Co. cars and rental.	5,690 73	
Right of way	2,363 59	
		44,796 17
Excess earnings over expenditures "main line"		44,809 91
Excess earnings over expenditures "extension"		7,379 02
		902,515 84
1876, Feb. 29.		
By Receiver's certificates		154,800 00
Amt. due for current expenditures in February, 1876, and prior		226,560 88
Amt. due other railroad cos.		39,465 62
Miscellaneous liabilities I. B. & W. Ry. Co.		6,939 46
Earnings main line for 3 mos. ending February 29, 1876:		
Freight	251,662 94	
Passenger	89,110 93	
Express	1,948 59	
Mail	9,283 75	
Miscellaneous	18,379 55	
		370,385 76
Earnings extension for 3 mos. ending February 29, 1876:		
Freight	35,367 65	
Passenger	15,170 10	
Express	286 94	
Mail	1,350 50	
Miscellaneous		
		52,175 19
Balance		52,188 93
		902,515 84

[Folios 436 to 451, both inclusive, were erased in original
452 copy.]

And afterwards, to wit, at the November term of said court, on the 9th day of November, 1876, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Come now the defendants, Joseph T. Thomas and Benjamin E. Smith, by Mess. Crawford & McConnell, their solicitors, and file their answer to the cross-bill and amended cross-bill of the Farmers' Loan and Trust Company in the words following, to wit:

The answer of Joseph T. Thomas and Benjamin E. Smith to the

cross-bill and amended cross-bill of the Farmers' Loan and Trust Company.

These defendants, now and at all times hereafter saving and reserving unto themselves all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said bills contained, for answer thereunto, or to so much or to such parts thereof as these defendants are advised it is material or necessary for them to make answer unto, answering, say:

These defendants admit that the Farmers' Loan and Trust Company is a corporation created by and a citizen of the State of New York, and that prior to July 12, 1869, there was a railroad corporation organized and existing under the laws of the State of Indiana called the Indianapolis, Crawfordsville and Danville Railroad
453 Company, which corporation was clothed with the powers and privileges set out in the said bills, and admit, as therein alleged, that prior to July 12, 1869, the said railroad company had become and was indebted to divers persons and corporations in the sum of $1,500,000, evidenced by certain coupon bonds secured by first mortgage on said entire line of railroad belonging to said railroad corporation; that the Danville, Urbana, Bloomington and Pekin Railroad Company was created a corporation by virtue of an act of the General Assembly of the State of Illinois approved February 28th, 1867, and was thereby endowed with powers and privileges set out in the said cross-complainant's bills, and that the said Danville, Urbana, Bloomington and Pekin Railroad Company, on the first day of April, 1869, signed, sealed, executed, acknowledged and delivered to the said Farmers' Loan and Trust Company its certain trust deed or mortgage, by which said mortgage or deed of trust the said last mentioned corporation conveyed to the said Farmers' Loan and Trust Company all and singular the property and franchises particularly set out in the said cross-complainant's bills, and that the said mortgage was made to secure the payment of 2,000 bonds, for the sum of $1,000 each, bearing interest at the rate of 7 per cent. per annum, payable semi-annually, said principal
454 and interest being payable in gold coin to the Farmers' Loan and Trust Company, or bearer, in the city of New York, the principal of said bonds being due and payable to the said Farmers' Loan and Trust Company, or bearer, on the 1st day of April, 1909, and bearing date the 1st day of April, 1869, and said interest being payable on the 1st days of October and April of each and every year. And these respondents further admit that the said mortgage contained the provisions substantially as alleged in the said cross-complainant's bills, but whether the said mortgage was valid and legal and whether the said Farmers' Loan and Trust Company could accept such conveyance and take the property alleged to be conveyed by it, these respondents neither admit nor deny, but leave such question to be established by evidence and to the judgment of the court.

Further answering, they admit that the two said railway companies above mentioned, by articles of consolidation bearing date the 12th day of July, 1869, consolidated their stock and property and became one corporation under the name and style of the Indianapolis, Bloomington and Western Railway Company.

These respondents, further answering, say that the said line of the Danville, Urbana, Bloomington and Pekin Railroad Company
455 had no equipment of any consequence, and the said Indianapolis, Crawfordsville and Danville Railroad Company's line very little, at the date of such consolidation, and that up to and until 1873–4 the said lines of railroad had a very meagre equipment and far from enough to adequately transact the business offered to them.

Further answering, these respondents admit that the said Indianapolis, Bloomington and Western Railway Company, after the consolidation aforesaid, made an alleged mortgage or deed of trust to the Farmers' Loan and Trust Company to secure the payment of 5,000 bonds of one thousand dollars each, dated on the same day with the said deed of trust and payable to William Dennison or bearer, in the city of New York, on the 1st day of October, 1909, principal and interest payable in gold, free of government tax, with interest warrants thereto attached signed by the secretary, for the payment of interest thereon at the rate of 7 per cent. per annum, payable in gold and payable in New York on the successive first days of October and April of each year; but whether the said railway company had power to make the said mortgage or whether the said Farmers' Loan and Trust Company had authority or power to accept such conveyance or take the property conveyed by the same, and whether it has a right to foreclose the said mortgage, these respondents do not
456 know; but these respondents say that they are informed and believe that of the said series of bonds under such alleged mortgage or deed of trust not more than $3,000,000 of them have been issued and that $2,000,000 of them are still in the custody of its agents and its representatives.

Further answering, these respondents admit that the said indebtedness of the said Indianapolis, Crawfordsville and Danville Railroad Company was satisfied and extinguished, as shown in the said cross-complainant's bill, by the substitution in place of the same of an equal number of the said 5,000 bonds secured by the last mentioned conveyance made by the consolidated company—the Indianapolis, Bloomington and Western Railway Company—to the said Farmers' Loan and Trust Company, and that the said bonds of such issue so used in satisfying the said indebtedness of the said Indianapolis, Crawfordsville and Danville Railway Company are included within the $3,000,000 which these respondents admit as aforesaid to have been issued.

These respondents also admit that on the 1st day of October, 1870, the said Indianapolis, Bloomington and Western Railway Company being thereto duly authorized by resolution of its board of directors, duly made, executed, signed, sealed, acknowledged, and de-
457 livered to William Dennison and Benjamin E. Smith a certain other indenture of mortgage or deed of trust, conveying

unto the said Dennison and Smith as trustees all and singular the entire railroad of the said grantor, extending from Indianapolis, in the State of Indiana, westwardly to Pekin, in the State of Illinois, through Crawfordsville, in said first mentioned State, and through Danville, Urbana, and Bloomington, in the State of Illinois—altogether in length of railway track about 214 miles, about 83 miles thereof being in the State of Indiana, and about 131 miles thereof in the State of Illinois, with all its franchises, equipment, property, lands, tenements, buildings, fixtures, machinery, goods and chattels used in or connected with the operation of said railway, including all rents, reservations, reversions of every nature and kind whatsoever, including all the property between said terminal points which the said grantor then had, owned, and possessed, or might thereafter acquire; which said indenture or mortgage was duly filed for record in the various counties through which the said line of railroad is located.

These respondents, further answering, admit that the said last mentioned indenture was made in trust to secure an issue of $1,500,000 of mortgage bonds of the said Indianapolis, Bloomington and Western Railway Company, the principal and interest payable in
458 the city New York, principal being payable 20 years from their date, and to bear interest at the rate of eight per cent., payable semi-annually on the first days of January and July of each and every year, provided the first installment should not be payable until the first day of July, 1871. And your respondents admit that it was provided, among other things in said indenture, that in case default should be made in the payment of any interest on the said bonds secured thereby, according to the tenor and effect of the coupons thereto annexed, or in case of the default of payment of any of said bonds when the same should become due, without the consent of the holder or holders of said bonds when such default should occur, said grantor, within six months after such default, the same default still continuing, on the demand of the said trustees, should and would surrender to them or to their agent actual possession of the said granted and demised railway premises, together with all the books, records, papers, accounts, and money of said grantor, and all management and control thereof, and all the expenses of taking, holding, managing, and operating said property, if possession thereof be so taken, should be paid from the income and profits thereof, and, in case of sale, from the proceeds of such sale, and apply the residue of said proceeds as is in and by said in-
459 denture provided; provided that no such demand for possession should be made by said trustee until they should be required by the holders of at least 1,000 of the said bonds then outstanding and then unpaid. And it was further provided therein that in case default should be made as aforesaid, and continue as aforesaid, it should lawful for the said trustees or their successors in said trust, after entry as aforesaid, or other entry, or without entry, to sell said mortgaged property at public auction in the city of

Chicago, in the State of Illinois, at such time as said trustees might appoint, they having demanded of the said grantor full payment of all money then in default, first having advertised the time and place of such sale; and, on receipt of the purchase-money, to convey said property to the purchaser, and after deducting from the proceeds of all the expenses of the sale all advances and liabilities which might have been incurred by said trustees in operating, controlling, and maintaining such railway and property, and in managing its business affairs, and all payment of taxes, charges, assessments, and liens prior to the lien of the said last mentioned indenture on said premises, or any part thereof, as well as reasonable compensation for the services of said trustees, and apply the residue in the payment of the interest and principal of said issue of bonds
460 secured by said indenture in the manner provided therein.

And it was furthermore provided that if default should be made in the payment of half-yearly interest on any of the said bonds, and the warrant or coupon should be presented and their payment demanded, and said default should have so continued for six months after such default, and without the consent of the holder or holders of said bonds, or any part thereof, secured by said indenture, then all of said bonds should become immediately due and payable, anything in the said bonds to the contrary notwithstanding, the said trustees might proceed to collect both principal and interest of all such outstanding bonds by foreclosure and sale of such property or otherwise, as is in and by said last mentioned indenture provided.

And, further answering, these respondents admit and say that the said entire series of bonds which last mentioned indenture was given to secure, were issued and put upon the market and negotiated for value in due course of business, and that the same, with large arrearages of interest thereof, are now a valid and outstanding debt of said Indianapolis, Bloomington and Western Railway Company, and are a valid lien on all the property and effects of the said railway company in the States of Indiana and Illinois.

461 These respondents, further answering, say that William Dennison, one of said trustees, has, since the execution of said indenture, departed this life; and that under the provisions of said last mentioned indenture Joseph T. Thomas has been appointed and is now acting as such trustee in his stead.

These respondents, further answering, admit that on the 28th day of June, A. D. 1872, the said Indianapolis, Bloomington and Western Railway Company purchased the line of railroad at that time the property of the Havana, Mason City, Lincoln and Eastern Railway Company, and thereafter, on the same day, conveyed the said railway so purchased to William Dennison and Robert Turner by deed of trust to secure the payment of 5,500 bonds of the sum of $1,000 each, and interest thereon at the rate of seven per cent. per annum; and, further answering, they say that they understand that said William Dennison resigned this trust, and Charles W. Smith has been appointed as his successor under the provisions of said deed of trust.

On the sixteenth day of November, 1874, the said Indianapolis, Bloomington and Western Railway Company, by its president and secretary duly authorized, did sign, seal, execute, acknowledge and deliver a certain trust conveyance or mortgage of all and sin-
462 gular its chattels and personal property, therein more specifically described, to the defendant Joseph T. Thomas, embracing therein all and singular the personal property of every kind, character and description in any manner belonging to the said corporation; the said trust mortgage being executed as security for the benefit, protection, and payment of all and singular such creditors as held the notes, acceptances and obligations aforesaid not included in the bonded issues hereinbefore described, but more specifically set out at large in said chattel mortgage.

And these respondents, further answering, say that the said Indianapolis, Bloomington and Western Railway Company have made default in the payment of the interest of the mortgage of October 1, 1869, on the 1st day of October, 1874, and also made default in the payment of the semi-annual installments of interest due on the second series of bonds issued in the name of the Danville, Urbana, Bloomington and Pekin Railroad Company, on the 1st day of October, 1874, and that the said railway company defaulted in the payment of the semi-annual installment of interest due in July, 1874, on the said bonds secured by deed of trust to William Dennison and Benjamin E. Smith, and on the bonds commonly called the extension bonds, secured by the mortgage to William Dennison and Robert Turner, on the first day of July, 1874.

And these respondents show that no part of the several in-
463 stallments of interest due on the different bonded obligations have ever been paid by the said corporation, nor have any part thereof, but the same still remains in arrear, and constitutes an indebtedness against the said corporation, and a lien upon the property of the said company, according to the different legal and equitable priorities as they may be determined as a matter of law by the court, upon the said several indentures of mortgage hereinbefore recited.

And, further answering, these respondents deny that the cross-complainant is entitled to the relief or any part thereof asked for in the said original and said amended cross-bill, and demand and pray the same advantage of this answer as if they had pleaded or demurred to the said bills of complaint, and pray to be dismissed with their reasonable costs and charges in this behalf sustained.

JOSEPH T. THOMAS.
BENJAMIN E. SMITH.
By H. CRAWFORD, *their Solicitor.*

And at the same time said defendants, Joseph T. Thomas and Benjamin E. Smith, by Mess. Crawford & McConnell, their said solicitors, file their cross-bill herein, in the words following, to wit:

464 United States Circuit Court, Southern District of Illinois.

To the Honorable Judge of said Court, in chancery sitting:

Your orators, Joseph T. Thomas and Benjamin E. Smith, humbly complaining, would respectfully show unto your honor that prior to the 12th day of July, 1869, there was a railroad corporation organized and existing under the general laws of the State of Indiana, called the Indianapolis, Crawfordsville and Danville Railroad Company, which said corporation was vested with full corporate power to locate, construct and operate a line of railroad from Indianapolis, Marion county, Indiana, westwardly through the counties of Hendricks, Boone, Montgomery, Fountain and Warren, to the western boundary line of the State of Indiana, and to procure the means to build, construct and operate said line of road, said corporation was vested with corporate power to borrow money and issue bonds, secured by mortgage upon the said line of railroad, and its appurtenances and appendages, and with all other corporate ca-
465 pacities and powers so vested in such railroad company under the laws of the State of Indiana, including the power to consolidate its stock and property with all connecting lines of railroad lying in another State.

Prior to the said 12th day of July, 1869, the said Crawfordsville and Danville Railroad Company had become and was then indebted to divers persons and corporations in the sum of $1,500,000, evidenced by certain coupon bonds secured by first mortgage on the entire line of railroad belonging to such corporation, together with its equipments, appurtenances, tolls and franchises.

By virtue of an act of the General Assembly of the State of Illinois, approved February 28, 1867, there was created and organized a corporation of the State of Illinois, called the Danville, Urbana, Bloomington and Pekin Railroad Company, which said corporation, by virtue of such enactment, was endowed with full corporate power to locate, construct and operate a line of railroad designated in its charter from Pekin to Tazewell county, eastwardly
466 through Bloomington, Champaign and Danville, to the eastern boundary of the State of Illinois.

The said company was also authorized to raise money by mortgage of its corporate property and franchises, and in by its charter, and under the general laws of the State of Illinois, the said Danville, Urbana, Bloomington and Pekin Railroad Company was further vested with full corporate capacity to lease and purchase other lines of railroad, and also to consolidate its stock with those of any connecting line of railroad.

And your orators would further show unto your honor that on the 1st day of April, 1869, the said Danville, Urbana, Bloomington and Pekin Railroad Company, to secure the payment of a certain issue of bonds of the said company of the number of 2,000, and of the sum of $1,000 each, payable on the 1st day of April, 1909, and drawing interest at the rate of seven per cent. per annum, payable

semi-annually, did execute a certain deed of trust or mortgage of all its property and franchises it then owned or might thereafter
467 own, to the defendant, the Farmers' Loan and Trust Company, a corporation organized and existing under the laws of the State of New York, as trustee, with power, in case of default in payment of any installment of interest, and when such default should have continued for six months, to enter upon the property conveyed, and in the manner and form particularly provided in said mortgage or deed of trust, to sell the same for the benefit of the persons purchasing the bonds secured as aforesaid by said deed.

Whether the said mortgage or deed of trust was lawfully executed, or whether the said Farmers' Loan and Trust Company could accept the said conveyance and hold the property described therein, your orators are not advised, but leave such matters to be established by evidence.

Your orators would further show unto your honors that thereafter, on or about the 12th day of July, A. D. 1869, the said railroad companies before mentioned, by articles of consolidation dated of said day, and which were duly ratified by the board of directors and the stockholders of both
468 said corporations, being thereto duly authorized by their respective charters and the laws of the States of Illinois and Indiana, their said roads meeting, intersecting and connecting at the State line, consolidated their stock, property and franchises, and became one corporation under the name of the Indianapolis, Bloomington and Western Railway Company; in pursuance of said articles, said last named corporation, by virtue of said articles and the laws of Indiana and Illinois, became thereby vested with all and singular the property, estate, privileges and franchises of the said two original companies which had executed the said articles of consolidation.

Thereafter, on the 1st day of October, A. D. 1869, for the purpose of retiring the original issue of bonds made by the Indianapolis, Crawfordsville and Danville Railroad Company, to the amount of $1,500,000, and also the issue put in circulation by the Danville, Urbana, Bloomington and Pekin Railroad Company as afore-
469 said, amounting to $2,000,000, and for other purposes, the said Indianapolis, Bloomington and Western Railway Company executed a certain mortgage or deed of trust to the said Farmers' Loan and Trust Company, to secure a proposed issue of 5,000 bonds of the sum of $1,000 each, payable on the 1st day of October, A. D. 1909, and drawing interest at the rate of 7 per cent. per annum, payable semi-annually. By said deed of trust the said Farmers' Loan and Trust Company was authorized on default in payment of an installment of interest, and when such default should have continued for six months, and at the request of a majority of the persons holding the said bonds, to enter upon said property, and in the manner provided particularly in said deed of trust, to sell the said property for the benefit of the persons holding said bonds. Your orators are unable to say whether the said mortgage was lawfully executed, or

whether the said Farmers' Loan and Trust Company could take the property conveyed thereby; but as to the legality and effect of said indenture, your orators charge nothing, but leave such question to the judgment of the court.

470 Your orators further show that they are informed and believe that the said issue of bonds by the Indianapolis and Crawfordsville Railroad were surrendered and canceled, and that the owners thereof took in place thereof an equal number of the said 5,000 bonds issued by said Indianapolis, Bloomington and Western Railway Company. They further show that of the 5,000 bonds not more than 3,000 have ever been issued, and that the balance remains in the custody of the company.

And afterwards, to wit, on the 1st day of October, 1870, the said Indianapolis, Bloomington and Western Railway Company, as thereto authorized by its charter, and under the orders of the board of directors of said company, signed, sealed, executed, acknowledged and delivered its certain other trust deed or mortgage, conveying to William Dennison and Benjamin E. Smith, as trustees, for the use therein expressed, all and singular the entire railway, extending from Indianapolis, in the State of Indiana, westwardly to Pekin, in the State of Illinois, with all the franchises, equipments, property,

471 lands, tenements, buildings, fixtures, machinery, goods and chattels, including all rents, reservations and reversions of every nature and kind whatever, including all the property between said terminal points which the said railroad company then had or might thereafter acquire, the said conveyance being executed in trust and as security for the then contemplated issue of bonds to the amount of $1,500,000, intended to be used by said corporation for the purpose of borrowing money for the equipment, operating and other uses of said railway company. The said indenture was duly recorded in the recorder's office of the counties through which the said railway runs, both in the State of Indiana and State of Illinois, shortly after the execution of the same, and in the said month of October. And under the protection and security of said indenture the said Indianapolis, Bloomington and Western Railway Company did proceed to utter and put into general circulation, in the usual course of business and for value, the said $1,500,000 of bonds, dated on the 1st day of October, 1870, payable 20 years from the date, bearing interest at the rate of eight per cent. per annum,

472 payable semi-annually, evidenced by interest warrants payable on the 1st days of January and July of each year, the first payment of interest thereof to be due on the 1st day of July, A. D. 1871.

And your orators would further show unto your honor that it was in and by said deed of trust provided that in case default should be made in payment of any interest on the aforesaid bonds according to the tenor of the coupons thereto annexed or other provisions thereof, or in case default should be made in the payment of the principal of said bonds or any of them, and the same should con-

tinue without the consent of the holders of the said bonds on which default should occur, it should be lawful for the said trustees or their successors in said trust, after entry or without entry, personally or by agent or attorney, to sell and dispose of to the highest bidder all and singular the premises thereby conveyed or intended so to be, as an entirety, at public auction, in the city of Chicago, Illinois, at such time as said trustees or their successors might appoint,
473 first having demanded of the said railway company full payment of all money then in default, and also first having given 60 days' notice of such time and place of sale and a full description of the property so to be sold by advertisement thereof in three newspapers, one published in the State of Illinois, one published in the State of Indiana, and one published in the city of New York, and upon such sale and receipt of the purchase-money therefor to convey the same by good and sufficient deeds of conveyance to the purchaser or purchasers, and that such sale and conveyance when made should convey all the right, including the equity of redemption, title, estate, interest and property of the said railway company of, in and to the said road and premises, franchises and property to the said purchaser, in fee-simple forever, and should be a perpetual bar, both in law and equity, against the said railroad company and its successors and assigns, and that after deducting from the proceeds of such sale the expenses of the sale, and conveyance, and all advances and liabilities which may have been so incurred by the said trus-
474 tee in operating and controlling and maintaining the said railway and property, as well as reasonable compensation for their services, to apply the proceeds of such sale in payment of the interest of this said $1,500,000 of bonds, or to so many of them as shall have been issued by said railroad company and then be outstanding pro rata, until all such interest shall be paid, and afterward to apply the remainder to the payment of the principal of said bonds pro rata, until such principal should be paid, and if any surplus be left after paying all such of said matters to pay the same to the railroad company, and such payment should be made on said bonds whether the same should have become due or not at the time of such sale.

And it was furthermore provided that in case default be made in the payment of any half-yearly interest on any of the said bonds and warrants or coupons, and such interest should have been presented and its payment demanded, and such default should continue
475 for six months after such demand, and without the consent of the holders of such coupons or bonds, then and thereupon the principal of all the said bonds thereby secured should be and become immediately due and payable, anything in the said bonds to the contrary notwithstanding.

And again, it was provided that in case of the resignation or inability to act of the trustees aforesaid, or either of them, that the said board of directors might appoint a successor or successors.

Your orators would show that one of the original trustees, William Dennison, did, on the day of , resign his trust, and

that thereupon, under and in pursuance of the provision last mentioned, your orator, Joseph T. Thomas, was appointed as successor.

Your orators would further show unto your honor that the said railroad company made default in the payment of the semi-annual installment of interest due in July, 1874, on the said $1,500,000 of bonds; that the warrants or coupons for such interest have been presented to the said railway company, and their payment de-
476 manded, but that notwithstanding such default has continued for six months and more, and that no part of the same, nor any of the installments of interest since said time accruing, have been paid, and that said default first mentioned and the other defaults have occurred and continue without the consent of the holder or holders of such coupons and bonds, and that in and by virtue of the said deed of trust the whole of said principal and interest has become due and payable.

Your orators would further show unto your honor that on the 28th day of January, 1872, the said Indianapolis, Bloomington and Western Railway Company purchased from the Havana, Mason City, Lincoln and Eastern Railway Company a line of railroad in the process of construction from the city of Decatur to Champaign, in Champaign county, Illinois, and from the last named point westwardly through Clinton, Lincoln, Mason City, and Havana, to a point on the Mississippi River; and that the said Havana, Mason City, Lincoln and Eastern Railway, under due authority of its charter, did sign, seal, execute, acknowledge, and deliver
477 unto the Indianapolis, Bloomington and Western Railway Company, then and there duly empowered by its charter to receive such grant and deed of conveyance, all and singular the said line of railroad belonging to said Havana, Mason City, Lincoln and Eastern Railway Company, and then constructed or authorized to be constructed, together with the franchises, liberties, and privileges in any manner appertaining to said line of road; and thereafter, on the same day, the said Indianapolis, Bloomington and Western Railway Company executed a deed of trust to William Dennison and Robert Turner, to secure a contemplated issue of 5,500 bonds of the sum of $1,000 each, payable on the 1st day of July, 1912, in gold coin, with interest at the rate of 7 per cent. per annum, payable on the 1st days of January and July each year; that said 5,500 bonds were subsequently issued and are now outstanding, and a valid indebtedness to the extent of the face thereof, and all interest accruing thereon since the first day of July, 1874; that said Dennison has resigned his trust, and that Charles W. Smith has been appointed his successor.

478 And further your orators show that on the 16th day of November, A. D. 1874, the Indianapolis, Bloomington and Western Railway Company, by its president and secretary, duly authorized, signed, sealed, executed, acknowledged and delivered a certain trust conveyance or mortgage of all and singular its chattels and personal property, therein more specifically described, to Joseph T.

Thomas, embracing therein all and singular the personal property of every kind, character, and description in any manner belonging to the said corporation; that said mortgage was given as security for the benefit, protection, and payment of all and singular such creditors as held the notes and obligations of the said railway company, *in* including in the bonded issues heretofore described, but more specifically set out at large in said chattel mortgage.

Your orators would further show unto your honor that they are informed and believe, and charge the fact to be, that the entire sums realized from the sale of the $1,500,000 of bonds secured by the said deed of trust to William Dennison and Benjamin E. Smith was used in the purchase of equipment, including locomotive en-
479 gines, machinery, cars, station houses and other appurtenances for the use and behalf of the said original main line of the said Indianapolis, Bloomington and Western Railway Company. Your orators would further show that in and since the year 1874 the said railway company, as well as the said Danville, Urbana, Bloomington and Pekin Railroad Company, has defaulted in the payment of its interest, and that there is now no probability that the said railway company will ever be able to pay said interest or any part thereof; and your orators would respectfully show unto your honor that in view of the hopeless insolvency of the said railway company, and as the property of said company itself is not now worth by several million of dollars the amount of the indebtedness upon it, that it has become important for the bondholders for whom your orators are trustees, a sale of said property under the said mortgage or deed of trust should be had; therefore your orators pray that the said Indianapolis, Bloomington and Western Railroad Company, the Farmers' Loan and Trust Company, Malcolm C. Turner, Thomas
480 C. Turner, Charles Turner, Robert Turner, Archibald Turner, George W. Turner, Joseph S. Decker and Charles W. Smith be made parties defendants hereto, and required to answer this your orators' bill, but not under oath—answer under oath being hereby waived—and that an account may be taken of what is due under the said mortgage, and the amount of the property on which the said mortgage is a lien, and that a decree may be entered for foreclosure and sale of all the property conveyed by the said trust deed or mortgage, or on which the bondholders under the said deed of trust are entitled to a lien, and that all the right, title and equity of redemption of the said Indianapolis, Bloomington and Western Railway Company, its successors and assigns, shall be foreclosed and sold for the benefit of the bondholders for whom your orators are trustees as aforesaid shown; and that your orators, for and in behalf of such *cestui que trusts*, may have such further and other relief as equity may require and to your honor shall seem meet.

JOSEPH T. THOMAS,
BENJAMIN E. SMITH,
By CRAWFORD & McCONNELL, *their Solicitors.*

481 And afterwards, to wit, at the November term of said court, on the 18th day of January, 1877, before the Honorable Thomas Drummond and Hon. Walter Q. Gresham, judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Come now the cross-complainants, Joseph T. Thomas and Benjamin E. Smith, by Henry Crawford, their solicitor, and file their replication to the answer of the Farmers' Loan and Trust Company, in the words following, to wit:

These repliants, saving and reserving to themselves now and at all times hereafter all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer of the said defendant, for replication thereunto say that they will aver, maintain and prove their cross-bill of complaint to be true, certain and sufficient in the law, to be answered unto; and that the said answer of the said defendant is uncertain, untrue and insufficient to be replied unto by these repliants without this; that any *any* other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, con-
482 fessed and avoided, traversed or denied, is true. All which matters and things these repliants are ready to aver, maintain and prove as this honorable court shall direct, and humbly pray as in and by their said cross-bill they have already prayed.

HENRY CRAWFORD,
Solicitor for Cross-Complainant.

483 And afterwards, to wit, at the November term of said court, on the 20th day of January, 1877, before the Honorable Thomas Drummond and Honorable Walter Q. Gresham, judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the Farmers' Loan and Trust Company, defendant to the cross-bill of Joseph Thomas and Benjamin E. Smith, by Messrs. Williams, Burr and Capen, its solicitors, and files its answer to said cross-bill in the words following, to wit:

Now comes the Farmers' Loan and Trust Company, one of the defendants to said cross-bill, and saving and reserving to itself all right of exception by reason of the many errors and imperfections in said cross-bill, answering, says: That it does not know and therefore can neither admit or deny what is stated in said cross-bill *or* to the consolidation of the Havana, Mason City, Lincoln and Eastern Railway Company and the Monticello Railroad Company; neither does it know and therefore can neither admit or deny the purchase of the property of said consolidated company by the Indianapolis, Bloomington and Western Railway Company, nor the making of the
484 deed of trust by the said Indianapolis, Bloomington and Western Railway Company, and said property to the said

William Dennison and Robert Turner, nor the terms of said indentures, if any such was made, nor the resignation of said Dennison as trustee thereunder, or the appointment of the said Charles W. Smith in his place, nor the recording of said instrument, nor the issuance of the bonds pretended to be secured by the said instrument; but as to all said matters this respondent calls for strict proof, if the compl'ts deem it material. Respondent, further answering, admits the existence of the Indianapolis, Crawfordsville and Danville Railroad Company, with the powers as stated in said cross-bill. Respondent further admits that said last named corporation was indebted in the said sum of $1,500,000, as stated in said cross-bill. Respondent, further answering, admits the existence of the Danville, Urbana, Bloomington and Pekin Railroad Company, with the powers as stated in said cross-bill. Respondent further admits the making and delivering to this respondent by the said last named corporation of the deed
485 of trust to the sum $2,000,000, and that said two millions bonds were duly issued and sold, and that they are now outstanding and unpaid as in said cross-bill alleged. Respondent, further answering, admits the consolidation of the Indianapolis, Crawfordsville and Danville Railroad Company with the said Danville, Urbana, Bloomington and Pekin Railroad Company into the Indianapolis, Bloomington and Western Railway Company, as is in and by said cross-bill stated.

It further admits the making of the trust deed of the said Indianapolis, Bloomington and Western Railway Company to this respondent to secure an issue of five million dollars in bonds, and that the said Indianapolis, Bloomington and Western Railway Company did, with $1,500,000 of said bonds, return the said $1,500,000 of bonds of the Indianapolis, Crawfordsville and Danville Railroad Company, and did issue and put in circulation $1,500,000 more of said five millions bonds, and that no part of said two millions of bonds of said Danville, Urbana, Bloomington and Pekin Railroad Com-
486 pany were ever returned, and that only three millions of dollars of said five million dollars of bonds were ever issued. The remaining two millions of said five millions are now in possession of the respondent, and do not constitute any debt of said corporation. Respondent, further answering, says, at the times of the said conveyances to this respondent, said conveyances were lawfully made to and accepted by this respondent, and this respondent was capable and duly authorized to accept and execute such trust. Respondent further admits the making on the 1st of October, 1870, by the said Indianapolis, Bloomington and Western Railway Company, to the said William Dennison and Benjamin E. Smith, of the indenture to secure one million five hundred thousand dollars bonds, but says that whatever debt may remain unpaid, if any, secured by said last mentioned indenture, is but a second lien on said railroad property in Indianapolis, and a third lien on said property in Illinois, and is junior and subject to the prior liens of the said two indentures so before executed to this respondent.

487 Respondent, further answering, denies that on the 16th day of November, 1874, or on any other day, the said Indianapolis, Bloomington and Western Railway Company, by its president and secretary, duly authorized, signed, sealed, executed, acknowledged, and delivered a chattel mortgage to one Joseph T. Thomas on its personal property as is in and by said cross-bill alleged, but if any such instrument was attempted to be executed, the same is null and void; because, first, it was attempted to be executed in fraud of the rights of this respondent and its *cestuy que* trusts under the said two indentures made to this respondent; second, the said president and secretary had no authority from the board of directors of said railway company to make any such instruments; third, said president and secretary had no authority either in laws or in fact to make any such instrument; fourth, said instrument was not executed, acknowledged, or recorded in conformity with the laws of either the State of Illinois or the State of Indiana, regulating the making, acknowledging, or recording of chattel mortgages.

488 Fifth. Such instrument was attempted to to be made to secure debts past due at its date. Sixth. Said instrument was attempted to be executed in the absence of and without the knowledge or consent of the grantee therein named, and was not delivered to nor accepted by the said grantee.

Respondent, further answering, denies that a large part or any part of the funds raised by the sale and hypothecation of said five thousand five hundred extension bonds was used in equipping the main line of said road or any part thereof, but on the contrary charges the truth to be that said extension was largely built from the earnings of the said main line, and this respondent utterly denies that the proceeds of said extension bonds in any of the locomotive engines, rolling stock, fixtures, building or machinery, or other property of such main line. This respondent, further answering, denies that it or its cestuy que trust have any interest in or connection with the said extension, or that its right to foreclose its said two indentures and to sell the property thereby conveyed should be in any

489 way connected with or complicated with the said extension property. This respondent says its said two indentures were made before said extension had any existence, and that said trust deed or mortgage upon said extension, if any such be shown to exist, is a lien upon property separate and distinct from property claimed by this respondent, and denies any power in this court or any equity in the holders of said extension bonds to call upon this or any other court to compel a joint foreclosure and sale of different properties under separate and distinct mortgages. Respondent, further answering, says that its does not know, and therefore neither admits or denies, that default was made in the payment of the interest on the said 5,500 extension bonds, nor whether the complainants in said cross-bill are entitled to foreclose the mortgage, which in the same was secured; and now having, as it is advised, fully answered,

&c., it asks to be hence discharged with its reasonable costs,
490 &c.

FARMERS' LOAN AND TRUST COMPANY,
By WILLIAMS, BURR & CAPEN, *Its Solicitors.*

J. AUGUST. JOHNSON,
J. D. CAMPBELL, and
WILEY & PARKER,
Of Counsel.

And at the same time said Farmers' Loan and Trust Company, as defendant to the cross-bill of Robert Turner and Charles W. Smith, files its answer to said cross-bill in the words following, to wit:

And now comes the Farmers' Loan and Trust Company, one of the defendants to the said cross-bill, and saving and reserving to itself all just right of exception to the manifold erroneous and insufficient statements in the said cross-bill, yet for answer to the same or to so much & such parts thereof as this respondent is advised it is material for it to answer unto, answering, says it admits the incorporation of the Indianapolis, Crawfordsville & Danville Railroad Com-
491 pany, with the powers and for the purposes as stated in the said cross-bill. It further admits that said corporation was indebted in the said sum of one million five hundred thousand dollars, as in said cross-bill stated. It further admits the incorporation of the Danville, Urbana, Bloomington & Pekin Railroad Company, with the power for the purposes as in and by said cross-bill stated. It further admits the execution on the first day of April, 1869, of the trust deed to this respondent to secure an issue of two thousand bonds of one thousand dollars each, as in said cross-bill stated, which said last mentioned trust deed this respondent avers was lawfully executed, and that this respondent lawfully could and did accept the trust created and empowered by the said indenture. And this respondent, further answering, says that the said two thousand bonds which the said last mentioned indenture was to secure were all duly sold and negotiated, and are now, together with large arrearages of interest thereon, past due & unpaid, a valid and subsisting debt, the said Indian-
492 apolis, Bloomington Railway Company *Company*, and are a valid, paramount & first lien, and all the property in said indenture described or intended to be thereby conveyed. Respondent, further answering, admits the consolidation of the said two first named incorporations with the said Indianpolis, Bloomington anp Western Railway Company, as in said cross-bill stated. Respondent further admits that the said last named company did, on the 1st day of October, 1869, duly make and deliver to this respondent a deed of trust on the said entire consolidated railway and property for the purpose of securing an issue of five thousand bonds of one thousand dollars each, as in said cross-bill stated. And respondent, further answering, says that the said last mentioned indenture is and was legal in all respects, and that this respondent could and did accept the trust empowered and created by said indenture.

Respondent further admits that only three thousand of said five thousand bonds were ever issued, and that the remaining two thousand remain in the hands and custody of this respondent.

493 Respondent, further answering, says that said three thousand bonds were duly issued and sold, and are, together with large arrearages of past-due interest thereon, a valid and subsisting debt of said Indianapolis, Bloomington and Western Railway Company, and are a valid subsisting paramount and first lien on all that part of the consolidated railroad and property aforesaid, lying and being *neither* the State of Indiana, and a valid second lien on all that part of said railroads and its property called the main line situate in the State of Illinois.

Respondent, further answering, admits the making of said deed of trust of October the 1st, 1870, to the said William Dennison and Benjamin E. Smith, to secure the sum of one million five hundred thousand dollars; admits that the said amount of one million five hundred thousand dollars was duly issued and sold, and respondent says it believes that the terms of said trust deed are properly set forth in said cross-bill, but for greater certainty requires the pro-

494 duction of such original deed on the trial of said cause.

This respondent, further answering, says that it does not know, and therefore can neither admit or deny that the said William Dennison resigned his trust, and then the said Joseph T. Thomas was appointed in his stead, as in said cross-bill alleged.

Respondent, further answering, says it does not know, therefore can neither admit or deny the default in the payment of interest on the said $1,500,000 secured by the said last mentioned indenture.

But respondent says that the debt secured by said last mentioned indenture is only a second lien on the property situate in the State of Indiana, and a third lien on the property situate in the State of Illinois, as therein described, and subject to the said other two indentures made to this respondent.

Respondent, further answering, says it does not know, and therefore can neither admit nor deny the purchase by the Indianapolis, Bloomington & Western Railway Company of the railroad of

495 the said Havana, Mason City, Lincoln & Eastern Railway Company, or of the mortgaging of said last mentioned railroad, or of the resignation of the said Dennison as trustee, or of the appointment of the said Charles W. Smith as his successor.

And respondent, further answering, says it denies that on the 16th day of November, 1874, or any other day, the said Indianapolis, Bloomington and Western Railway Company, by its president and secretary, duly authorized, signed, sealed, executed, acknowledged and delivered a chattel mortgage to one Joseph T. Thomas, on its personal property as is in and by the said cross-bill described; but this respondent says that if any such instrument was attempted to be executed the same is null and void, because: First, it was attempted to be executed in fraud of the rights of this respondent and of

its trust under the said two indentures made to this re-
496 spondent. Second, the said president and secretary had no authority from the board of directors of the said railway company to make any such instrument. Third, president and secretary had no authority either in law or in fact to execute any such instrument. Fourth, said instrument was not executed, acknowledged or recorded in conformity with the laws of either the State of Illinois or the State of Indiana regulating the making, acknowledging and recording of chattel mortgages. Fifth, said instrument was attempted to be made to secure debts past due at its date. Sixth, said instrument was attempted to be executed in the absence of and without the knowledge or consent of the grantee therein named, and was not delivered to or accepted by said grantee. Respondent, further answering, says that it does not know and therefore can neither admit or deny what use was made of the sums realized from the sale of the 1,500,000 of bonds secured by the deed of trust to said Dennison and Smith, but calls for strict proof of the same
497 if the complainants deem it material. Respondents, further answering, admits that the said Danville, Urbana, Bloomington and Pekin Railroad Company has defaulted in the payments of its interest as stated in said cross-bill, and admits that there is no probability that said railroad company ever will pay said interest or any part thereof. And now, having answered as far as it is advised it is material for it to answer, it asks to be hence discharged with its reasonable costs, &c.

FARMERS' LOAN AND TRUST COMPANY,
By WILLIAMS, BURR & CAPEN, *Solicitors.*
J. AUGUSTUS JOHNSON,
J. D. CAMPBELL, AND
WILEY & PARKER, *of Counsel.*

And at the same time the Farmers' Loan and Trust Company, cross-complainant herein, files its replication to the several answers of Joseph T. Thomas and Benjamin E. Smith, of Robert Turner and Charles W. Smith, and of William Reed and Frank
498 Reed, in the words following, to wit:

And the said Farmers' Loan and Trust Company, for replication to the several answers of Joseph T. Thomas and Benjamin E. Smith, of Robert Turner & Charles W. Smith, of William Reed and of Frank Reed, by S. P. Rule, his guardian ad litem, to its cross-bill, says that the said answers, and each and every of them, so far as they deny the allegations of its said cross-bill or set up new matter in avoidance of the relief prayed for in said cross-bill, are not true, and that the said cross-bill and each and every allegation therein contained is true, and it is ready to maintain and prove the same in such manner as shall be required by this honorable court; wherefore it prays as in and by its said cross-bill it has *has* heretofore done.

FARMERS' LOAN AND TRUST COMPANY,
By WILLIAMS, BURR & CAPEN, *its Solicitors.*

499 And afterwards, to wit, at the November term of said court, on the 22nd day of January, 1877, before the Honorable Thomas Drummond and Honorable Walter Q. Gresham, judges of said court, the following further proceedings in the above entitled cause were had, to wit:

On application of the counsel of the parties hereto that the evidence to be adduced on these respective issues shall be taken orally, it is ordered by the court that John A. Jones and John D. Howland, or either of them, by and they and each of them, are hereby appointed examiners or examiner, to take said evidence within sixty days from the entrance of this order under the sixty-seventh rule in equity with the amendments thereto, but this order shall not preclude either party from applying to the court or one of the judges thereof to take additional testimony.

And afterwards, to wit, at the November term of said court, on the 25th day of January, 1877, before the Honorable Thomas Drummond and Honorable Walter Q. Gresham, judges of said court, the following further proceedings in the above entitled cause were had, to wit:

500 Comes now the Farmers' Loan and Trust Company, cross-complainant herein, by counsel, and files its replication to the answer of the defendants, Joseph T. Thomas and Benjamin E. Smith, in the words following, to wit:

And the said Farmers' Loan and Trust Company, for replication to the joint answer of Joseph T. Thomas and Benjamin E. Smith, to its cross-bill and amended cross-bill, says that the said answer, so far as it denies the allegations in the said cross-bill or sets up new matter in avoidance of the relief prayed for in the said cross-bill, is not true, and that said cross-bill and each and every allegation therein contained is true, and this complainant is ready and willing to prove the same in such manner as shall be directed by this honorable court; wherefore it prays as in the said cross-bill it has already prayed, etc.

THE FARMERS' LOAN AND TRUST COMPANY,
By WILLIAMS, BURR & CAPEN.

And afterwards, to wit, at the November term of said court, on the 3d day of February, 1877, before the Honorable Thomas Drummond and Honorable Walter Q. Gresham, judges of said court,

501 the following further proceedings in the above entitled cause were had, to wit:

Comes now the Farmers' Loan and Trust Company by counsel, and files its replication to answers to its cross-bill, which, on its motion, is ordered to be filed as of December 4th, 1876, in the words following, to wit:

The Farmers' Loan and Trust Company, for replication to the answer of the said Malcolm C. Turner *et al.*, and of the said Indianapolis, Bloomington and Western Railway Company, and of the

said William Dennison, Benjamin E. Smith, Joseph T. Thomas, and to that of each and every other defendant who has answered the said cross-bill of the said Farmers' Loan and Trust Company, saving and reserving to itself all and all manner of advantage of exception to the manifold insufficiencies of the said answers, and each and every of them, says:

That it will aver and prove its said cross-bill to be true, certain, and sufficient in the law to be answered unto; and that the said answers of the said defendants, and of each and every of them are and is uncertain, untrue, and insufficient to be replied unto
502 by this repliant; without this, that any other matter or thing whatsoever in the said answers or any of them contained material or effectual in the law to be replied unto, confessed, and avoided, traversed, or denied, is untrue; all of which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by its said cross-bill it has already prayed.

FARMERS' LOAN AND TRUST COMPANY,
By WILLIAMS, BURR & CAPEN,
Its Solicitors.

And afterwards, to wit, at the November term of said court, in recess thereof, on the 27th day of February, 1877, the following further proceedings in the above entitled cause were had, to wit:

Now comes the complainant to the cross-bill herein by counsel, and moves for the appointment of an examiner herein, and files certain interrogatories therewith, and shows to the satisfaction of the court that notice of such motion, with a copy of said interrogatories, was served upon Mess. Crawford & McConnell, of counsel for the defendants, to said cross-bill, on the 13th day of the present
503 month.

And thereupon it is ordered, that Edward L. Owens, Esquire, of the city of New York, in the State of New York, is appointed an examiner in this case and is empowered to cause to come before him at his office, No. 61 Wall street, in said city, the following named witnesses, resident in said city, to wit: Roswell G. Rollston, Charles P. Babcock, Austin Corbin, Giles E. Tainter, Josiah B. Blossom, Henry T. Spaulding, Charles P. Choate, S. G. Moulton, Charles A. Newring, James B. Blossom, and Clark N. Grigg, and take their answers under oath to said interrogatories. And said examiner will reduce said answers to writing and return the same with this order and the copy of said interrogatories (which is appended hereto) into this court, addressed to the clerk of this court, by mail, with all convenient speed.

And here follow said interrogatories.

[Interrogatories are by consent omitted from the record at this point, as they appear in full in another part of the record.]

[Folios 504 to 509, both inclusive, were erased in original copy.]

510 And afterwards, to wit, at the November term of said court, on the 3d day of March, A. D. 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the Western Car Company, by McDonald and Butler, its solicitors, and files its answer to the cross-bill of the Farmers' Loan and Trust Company herein in the words following, to wit:

511 *The Answer of the Western Car Company to the Cross-Bill and Amended Cross-Bill of the Farmers' Loan and Trust Company.*

This defendant, the Western Car Company, a company duly organized and existing under the statute of the State of Delaware and a citizen of said State, now and at all times hereafter saving and reserving unto itself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections of the said cross-bill contained, for answer thereunto, or to so much or to such part thereof as this defendant is advised it is material or necessary to make answer unto, answering, says:

This defendant admits that the Farmers' Loan and Trust Company is a corporation created by and a citizen of the State of New York. It further admits that there was a railroad corporation organized and existing under the laws of the State of Indiana called the Indianapolis, Crawfordsville and Danville Railroad Company, clothed with the powers and privileges set out in said bills.

512 It further admits that there was a railroad corporation organized and existing under the laws of the State of Illinois called the Danville, Urbana, Bloomington and Pekin Railroad Company, endorsed with the powers and privileges set out in the said cross-bills, and that said last named company on the 1st day of April, 1869, signed, sealed, executed, acknowledged, and delivered to the said Farmers' Loan and Trust Company its trust deed or mortgage, by which said trust deed or mortgage the said last mentioned corporation conveyed to said Farmers' Loan and Trust Company all and singular the property and franchises principally set out in said cross-bills. It further admits that the said Indianapolis, Crawfordsville and Danville Railroad Company and the said Danville, Urbana, Bloomington and Pekin Railroad Company were consolidated by articles of consolidation bearing date the 12th day of July, 1869, and became one corporation under the name and style of the Indianapolis, Bloomington and Western Railway Company.

513 It further admits that the said Indianapolis, Bloomington and Western Railway Company, after the consolidation aforesaid, made an alleged mortgage or deed of trust to the Farmers' Loan and Trust Company to secure the payment of five thousand bonds of

$1,000 each, said mortgage or trust deed bearing date October 1, 1869, and executed and delivered on the 20th day of October, 1869, as alleged in said cross-bill.

It further admits that on the 1st day of October, 1870, said Indianapolis, Bloomington and Western Railway Company by resolution of its board of directors executed, signed, acknowledged, and delivered to Wm. Dennison and Benj. E. Smith a certain other and second indenture of mortgage or deed of trust upon its said railroad and property as set forth in said cross-bill.

It further admits that on or about the 16th day of November, 1874, the Indianapolis, Bloomington and Western Railway Company made, executed, and delivered to one Joseph T. Thomas, of Philadelphia, Pennsylvania, a chattel mortgage conveying to said trustee in
514 trust all the rolling stock, machinery, and chattel property of said railway company for the benefit of certain creditors of said company, named in schedule "A" attached to and made part of said chattel mortgage; and this defendant here now claims any and all rights reserved and secured to it by and under said last named mortgage.

And defendant, further answering said cross-bills, says that prior to July 1st, 1874, the Indianapolis, Bloomington and Western Railway Company had become and was indebted to this defendant for the use and rental of certain cars theretofore leased by this defendant to the said Indianapolis, Bloomington and Western Railway Company in the sum and amount of $191,614.43, as is shown by the proceedings of the board of directors of said railway company, at a meeting held September 9th, 1874, at which meeting the following resolution was adopted, to wit:

"*Ordered*, That the secretary be authorized and instructed to pay the Western Car Company the sum of $191,614.43, being the
515 amount due said car company on the 1st day of July, 1874, for rental of cars in a note dated July 1st, 1874, payable on demand with interest at the rate of 8 per cent. per annum until paid, it being understood and as an inducement to said car company to receive said note in payment of said amount due it as aforesaid, that in case this company shall issue second mortgage bonds on its extension, said car company or the holder of said shall have the privilege of converting the same into said bonds at a price to be agreed upon by the said company, and if they cannot agree the price to be determined by three referees, each company to select one and the two thus chosen to select the third. It is understood that no lien of said car company upon the property or credits of this company shall be lessened or disturbed by the acceptance of said note as aforesaid.

"*Ordered*, That a copy of the foregoing order, certified by the secretary, be delivered to the secretary of the car company."

That in accordance with the terms of said order and resolution this defendant received said note mentioned in said resolu-
516 tion, and afterwards, to wit, on the 3d day of November, 1875, recovered judgment against said Indianapolis, Bloom-

ington and Western Railway Company in the Circuit Court of the United States for the District of Indiana, for the sum of $212,138.40, which said judgment remains wholly due and unpaid.

And defendant, further answering, says:

That by the terms of the several contracts made and entered into by the said Indianapolis, Bloomington and Western Railway Company, for the use and rental of said cars, the said railroad company contracted and agreed that in case any of said cars should be destroyed or disabled by accidents or otherwise at any time during the existence of said contracts of rental, the said railway company would immediately replace such destroyed or disabled cars with an equal number of like cars, of equal good material, construction and value in all respects, as were those so destroyed or disabled before
517 the destruction or disabling of the same. And defendant charges that prior to the said 1st day of July, 1874, there were destroyed of the cars of this defendant, and then under lease to to and in possession of the Indianapolis, Bloomington and Western Railway Company, the following numbers and cars, to wit: No. 1794, box car, destroyed February 21st, 1873; 1445, box car, May 31st, 1873; 1022, in September 18th, 1873, and 2198, April 18th, 1874; and defendant charges that said lost and destroyed cars were at the time of their said loss and destruction of the value of $750 each, and that said railway company has not replaced any or either of said six (6) cars so lost and destroyed as aforesaid.

And defendant further says that there is due to this defendant, for rental of cars used and held by said Indianapolis, Bloomington and Western Railway Company, under contract of lease from this defendant, from July 1st, 1874, to December 1st, 1874, the further sum of $82,727.65, together with interest thereon from and after the 1st day of December, 1874; and that there is due to this de-
518 fendant, from Indianapolis, Bloomington and Western Railway Company for two (2) box cars destroyed by said railway company between July 1st and December 1st, 1874, the same being the property of this defendant, to wit, car No. 1016, destroyed November 20th, 1874, and car No. 1682, destroyed November 20th, 1874, which said cars so destroyed were of the value of $650 each, making the total indebtedness of said Indianapolis, Bloomington and Western Railway Company to this defendant for the use of cars belonging to this defendent, and for the destruction and loss of cars leased by this defendant to said railway company up to December 1st, 1874, the aggregate sum of $299,166.05, and interest, which said amount said railway company became and was liable to pay to this defendant for the use of said cars.

This defendant, further answering, says: That by proceedings under the original bill herein filed, one George B. Wright was appointed receiver of said Indianapolis, Bloomington and West-
519 ern Railway Company, and took possession of the property and road of said company on or about the 1st day of December, 1874, and ever since that time has held and still holds said road

and property, and is operating the same under the directions and orders of this court.

And defendant says that the furnishing of said cars to said railway company as hereinbefore set forth was in the nature of supplies furnished by said car company, and was and is an operating expense and a current expense incident and necessary to the operating of said railway, by means whereof said railway company has been enabled to transact its said business and to earn the greater part of whatever moneys it has earned and received for the payment of its debts, or for its own use since the said cars were delivered to said company for use as aforesaid; and defendant says that prior to the 1st of December, 1874, and before the appointment of the receiver herein, the said railway company, partly by means of the use of the cars of this defendant, earned large sums of money and acquired large
520 profits in the transaction of the said business far more in amount than sufficient to pay the then operating expenses of said railway and the rental accruing and falling due to this defendant, but that said railway company instead of applying the earnings made by it, by the use of defendant's cars, to the payment of the rental due to defendant, it expended large sums of money acquired by the use of the defendant's cars in the construction and completion of portions of the line of said railway and in adding betterments thereto and in payment of interest, and for other purposes other than operating expenses. And defendant further says that under and by the terms of the order appointing the receiver, by and among other things, the court ordered that out of the money coming into the hands of the receiver he should pay, first, all current expenses incident to the administration of the trust and the operating of said railroad, including all sums due to connecting or intersecting lines of railroad
521 arising from their interchange of business heretofore done with such connecting or intersecting lines, and all amounts legally due from said railroad company for taxes, county, State, or special. Next, all amounts due to all operatives, employees, and agents of said railroad for any services rendered to said railroad since the last day of July, 1874. Next, all amounts due for supplies purchased and used in operating said road and furnished since the 1st day of July, 1874.

And defendant says that of the aggregate amount due to this defendant from said railway company as hereinbefore set forth, the sum of $84,027 and interest accrued after said 1st day of July, 1874. And defendant says that since the appointment of said receiver and while he has had control and operating said line of railway, large sums of money have been earned by the operation of said railway, but that instead of applying the same to the payment of indebtedness falling under the terms of his said order of appointment, the said receiver has applied said money in payment for betterments upon the said railway and for other purposes, and has wholly
522 failed to pay the indebtedness covered and described by said order of appointment; and defendant says that the said amount

due from said railway company to this defendant, being in the nature of supplies furnished to enable said company to transact its business, and being operating expenses and a current expense incidental and necessary to the operating of said railway, is of right a prior lien upon the property and income of said railway, prior in equity to the lien of said cross-complainant, the said Farmers' Loan and Trust Company.

Defendant therefore prays that the receiver herein, said *George B. Wright*, may be ordered and directed to pay to defendant out of any moneys in his hands, or that may come into his hands belonging to or as the proceeds of the business of said railway company, the indebtedness of said railway company to this defendant as hereinbefore set forth, at such times and in such manner as to the court shall deem just, and to this, and that an account may be taken between defendant and said railway company, showing the
523 exact amount due to defendant for the use and rental of the cars of defendant prior to the appointment of said receiver, to wit, prior to the 1st day of December, 1874, and that an order and decree may be entered in this casue requiring the same to be paid as hereinbefore prayed. But in event that the incomes of said railway in the hands of said receiver, or that may come into his hands, shall be insufficient to pay the operating expenses of said railway and the indebtedness to this defendant, then and in that case defendant prays that upon the foreclosure of the mortgage upon said railway as prayed by cross-complainant, the Farmers' Loan and Trust Company, the amount due this defendant may be decreed and held to be a prior and first lien upon the property of said railway. And that the same may be held and decreed to be paid out of the first moneys arising from the sale of said railway and property upon said foreclosure.

And defendant will ever pray, &c., &c.

McDONALD & BUTLER,
Solicitors for Western Car Co.

524 The following stipulation was filed by the parties with the agreement that it should go into the record at this place:

It is hereby stipulated that the several persons, firms, and corporations intervening petitioners, claimants herein, named in the decree of October 31st, 1881, filed their several and separate petitions with the masters or the receiver in conformity with the requirements or provisions of the order of reference of June 4th, 1877, and the extensions or modifications thereof entered on the 18th day of July, 1877, and the 18th day of September, 1877, except as to the claims of Peter F. Brice, filed with the master, and the claim of Pullman Palace Car Company, filed with the court after September 15, 1877, the last named claim being filed on the 30th day of November, 1878, and also except as to the several claims of Wm. W. Martin, Elijah S. Alexander, Geo. Flynn, J. W. Todd, Tim Shay, James Shay, H. C. Darnell, Michael Grady, Claypool and Ketcham for P. Bonder-

son, Michael Gimbel, Edward Hayes, and Sarah J. Wingate, whose petitions were filed with the court in October, 1881.

525 It is further stipulated that the said several intervening petitions were for claims for supplies and materials severally furnished by said several intervening petitioners to the Indianapolis, Bloomington and Western Railway Company within the period of six months next preceding the first day of December, 1874, and which were used by said company in the operation of its said railway, and were for labor performed for said company in the operation of its said railway by said respective claimants severally, during the said period of six months above named.

This stipulation does not cover or in any manner affect such intervening petitions as appear in full in this record.

526 Here follows the intervening petition of the Western Car Company, filed in the southern district of Illinois, at Springfield, on the 3d day of March, A. D. 1877:

527 UNITED STATES OF AMERICA, }
District of Illinois. }

In the Circuit Court for the Southern District of Illinois.

MALCOLM C. TURNER et al.
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY et al. } Bill.

THE FARMERS' LOAN AND TRUST COMPANY
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY et al. } Cross Bill.

To the Honorable Judges of the United States Circuit Court for the Southern District of Illinois, in chancery sitting:

Your petitioner, the Western Car Company, a corporation duly and legally organized, incorporated, and doing business under and by virtue of the statutes of the State of Delaware, and a citizen of said State, respectfully petitioning, represents unto your honor that heretofore, to wit, on or about the day of November, 1874, Malcolm C. Turner, James Turner, Thos. E. Turner, Robert Turner, Archibald Turner, George M. Turner and Joseph S. Decker,

528 copartners doing business under the firm name and style of Turner Brothers, as holders of bonds secured by trust deeds or mortgages executed by the Indianapolis, Bloomington and Western Railway Company, and by the several railroad companies forming said Indianapolis, Bloomington and Western Railway Company by consolidation, filed their bill equity against said railway company, in the Circuit Court of Dewit county, in the State of Illinois, and in the Montgomery Circuit Court of Montgomery county and State of Indiana; and that afterwards the Farmers' Loan and Trust Com-

pany, a corporation duly created by and a citizen of the State of New York, as trustee of two of the trust deeds or mortgages resting upon the line of said railway, and the trustees of certain other mortgages made and executed by said Indianapolis, Bloomington and Western Railway Company, filed in said Circuit Court in the State of Indiana and Illinois aforesaid their answers and cross-bill to the said original bill; that afterwards such proceedings were had in said court of Indiana and Illinois, that the said Farmers' Loan and Trust Company filed in said court its amended and consolidated cross-bill; that upon said original bill such proceedings were had that on or about the 1st of December, 1874, one George B. Wright was
529 appointed receiver of the line and property of said railway company and that said last mentioned date took full possession and control of the property and road of said company, and has ever since and still does hold possession and operate the same; that afterwards the said suit in said courts of Indiana and Illinois were by proper proceedings transferred to the United States Circuit Court of said States; that the suit originally commenced in the Dewitt Circuit Court of the State of Illinois was by such proceedings transferred to the United States Circuit Court of the Southern District of Illinois, and the said suit in the said Montgomery Circuit Court was by similar proceedings transferred to the United States Circuit Court for the District of Indiana; that said suit in the Circuit Court of the United States for the Southern District of Illinois is now pending and undetermined, and that said railway and property of the said Indianapolis, Bloomington and Western Railway Company are now in the hands of the said George B. Wright, as receiver of the court, and your petitioner respectfully refers the court to the said original bill, cross-bill, and amended cross-bill now on
530 file in this court, for full and particular information of the contents thereof, so far as material to the purpose of this petition, the same as if herein copied.

Petition further shows that said receiver is now operating and controlling the road and effects of said railway company under the orders and direction of this court, and is in possession of said road and *a* rolling stock and all the effects of said railway company, and is using and operating the same, receiving all the profits and income thereof, and disposing of the same, claiming to act under and in accordance with the direction of this court.

Petition further shows that at the time of the commencement of said suit in said State courts, and at the time when said Wright was appointed receiver as aforesaid, to wit, on or about the first day of December, 1874, the said Indianapolis, Bloomington and Western Railway Company was and still is indebted to your petitioner in the sum of $299,166.05 and interest therein, together with interest thereon from the said first day of December, 1874, to the present time; and petition shows that said indebtedness arose in the manner following, to wit: On the 13th day of September, 1871, the Indianapolis, Bloomington and Western Railway Company made

and entered into a contract with the B. C. Smith, C. R.
531 Griggs, and associates under the firm name and style of Western Car Company, by the terms of which contract the said railway rented and leased from said Western Car Company (300) three hundred box cars for use upon the line of said company's railway for the term of (5) five years, said railway company agreeing to pay for the use and rental of said cars the sum of (6,000) six thousand dollars per month, and return said cars in as good condition at the end of said period as when they were received by said company, natural wear and decay alone excepted, a copy of which said contract is hereto attached and made part hereof, and for further certainty marked Exhibit "A." That afterwards, to wit, on the 1st day of March, 1872, the said Indianapolis, Bloomington and Western Railway Company made and entered into a contract in writiug with the Western Car Company, by the terms of which said railway company leased and rented from said Western Car Company (100) one hundred additional railroad cars, and agreed to pay said car company for the use of said cars ($20) twenty dollars each for each and every month, said contract being for a period of (5) five years from the date thereof; by the terms of which said contract the said railway company agreed at its own expense to maintain each and all of said cars during the existence of said contract
532 and its renewal, if renewed, in good repair and in safe and proper running order, and to restore any and all cars destroyed or disabled by cars of equal quality, kind and value at its own expense, and copy of which said second contract is hereto attached and made part hereof, and for greater certainty marked Exhibit "B." That after the making of said first named contract the said firm known as Western Car Company transferred its said cars to an association called the Western Car Company, and that after the making of the second of said last named contracts the said association called the Western Car Company became and was merged into a corporation under the laws of the State of Delaware under the name of the Western Car Company, and after the organization of the said the Western Car Company as a corporation the said Indianapolis, Bloomington and Western Railway Company, by resolution of its board of directors on the 18th day of June, 1873, consented to the transfer and assignment of said contracts hereinbefore mentioned and set forth to the Western Car Company as a corporation, as hereinbefore named, whereby the said Western Car Company, this petitioner, became the owner of and entitled to the said cars, and all rental accruing and accrued thereon, a copy of which said resolution of the directors of said railway company is hereto attached and
533 made part hereof, and for greater certainty marked Exhibit "D." That afterwards, to wit, on the 1st day of October, 1873, the said Indianapolis, Bloomington and Western Railway Company entered into a contract in writing with the Western Car Company, this petitioner, by the terms of which said railway company

leased from this petitioner (250) two hundred and fifty additional cars upon the same general terms and agreements as in the previous contracts mentioned and set forth, a copy of which said contract is hereto attached and made part hereof, and for greater certainty marked Exhibit "D;" and that said railway company, on said 1st day of October, 1873, made and entered into another and second agreement in writing with said Western Car Company, your petitioner, four hundred and twenty-five (425) railroad box cars in addition to the cars named and mentioned in the other contracts hereinbefore mentioned and set forth, a copy of which said contract is hereto attached and made part hereof, and for greater certainty marked Exhibit "E." And that said Indianapolis, Bloomington and Western Railway Company, on said 1st day of October, 1873, made and entered into another and third contract in writing with said Western Car Company, this petitioner, by the terms of which the said railway company leased from this petitioner one hundred (100)
534 coal cars in addition the cars in the several other contracts hereinbefore mentioned and set forth, a copy of which contract is hereto attached and made part hereof, and for greater certainty marked Exhibit "F." That said several contracts provided in the aggregate for the use of and rental of eleven hundred and seventy-five (1175) cars, the property of this petitioner; that the said Indianapolis, Bloomington and Western Railway Company from the date of said several contracts continued in the use and possession of said cars named in said contracts up to the time of the commencement of said suit and the appointment of said receiver. That on the 1st day of July, 1874, the said Indianapolis, Bloomington and Western Railway Company was indebted to your petitioner for the use and rental of said cars in the sum one hundred and ninety-one thousand six hundred and fourteen dollars and forty-three cents ($191,614.43.) That on the 9th day of September, 1874, the said indebtedness due to your petitioner up to the first of July, 1874, for the rental of said cars was settled by a note executed by said railway company to your petitioner for the amount last hereinbefore named, in obedience to an order of the board of directors of said railway company adopted at a meeting of said directors held on said 9th day of September, 1874, a copy of which said note, communica-
tions from this petitioner to said railway company, and resolu-
535 tions of said board of directors is hereto attached and made part hereof, and for greater certainty marked Exhibit "G." That afterwards, to wit, on the 3d day of November, 1875, your petitioner recovered judgment on said note in the United States Circuit Court for the District of Indiana against said railway company for the sum of two hundred and twelve thousand one hundred and thirty-eight dollars and forty cents ($212,138.40) and costs, which said judgment by the terms of said contract and by the statutes of Indiana draws interest from the date of the rendition thereof at the rate of 8 per cent. per annum.

And petition further shows that by the terms of each of said con-

tracts hereinbfeore mentioned and set forth the said railway company contracted and agreed to replace any of said cars lost, destroyed, or disabled, with cars of equal kind, quality, and value. And petitioner shows that prior to said first day of July, 1874, said railway company had lost and destroyed the following numbered box cars, to wit: 1794, destroyed February 21st, 1873; 1445, destroyed May 31st, 1873; 1022, destroyed September, 1873, and 2198, destroyed April, 1874,—each of which said cars were at the time of their loss and destruction of the value of ($750) seven hundred and fifty
536 dollars. And petitioner avows that said railway company has not replaced any or either of said cars so lost and destroyed, as by the said several contracts required, and that therefore said railway company is indebted to your petitioner in the sum of seven hundred and fifty dollars ($750) for each of said six (6) cars so lost and destroyed.

And petitioner further shows that after said 1st day of July, 1874, said railway company continued in the use and possession of said cars named in said several contracts up to the 1st day of December, 1874, and up to the time of the appointment of the receiver, and that the balance due to the petitioner for the rental of said cars from said 1st day of July to said 1st day of December, 1874, is the sum of eighty-two thousand seven hundred and twenty-seven dollars and sixty-five cents ($82,727.65), upon which amount this petitioner is entitled to interest from and after the said first day of December, 1874.

Petitioner further shows that in said last named period, between July 1st and December 1st, 1874, said railway company lost and destroyed of the cars belonging to this petitioner two (2) box cars numbered 1016, destroyed November 20, 1874, and 1682, destroyed November 20, 1874,—each of which cars were at the time of
537 said loss and destruction of the value of six hundred and fifty dollars ($650), and that said railway company had not replaced either of said cars, whereby this petitioner is entitled to receive and recover from said railway company the value thereof.

Your petitioner would further show that said George B. Wright, as receiver of said railway company, at the time of his appointment, and for a long time subsequent thereto, continued in the use and possession of your petitioner's said cars and still has in use and under rental upon the line of said railway a large proportion of said cars, but your petitioner in this petition does not present for adjudication or settlement the rentals due for use and possession of said cars from and after the appointment of said receiver, for the reason that the settlement and ascertainment of the amount due to your petitioner from said receiver as such is already under reference to the *Hon. Charles L. Holstein* as master in chancery under an order of reference made by the *Hon. Lyman Lacy*, judge of the Circuit Court of De Witt county, Illinois, prior to the transfer of said cause from the said court to the United States Circuit Court for the southern district of Illinois, which said reference is still under consideration by said master and undetermined.

538 And petitioner shows that said several sums of money hereinbefore mentioned set forth as due and owing from the said Indianapolis, Bloomington and Western Railway Company to this petitioner, each and every remains wholly due and unpaid, and that no part of said judgment hereinbefore mentioned has ever been paid by said railway company, or any person in its behalf, to this petitioner, but the same remains wholly due and unpaid.

And petition shows that said railway company received and used said cars in the transaction of its ordinary business from the several dates named in the several contracts until the date of the appointmet of said receiver, whereby said company became and was and is liable to pay to your petitioner the rental for said cars, and for any and all cars lost or destroyed, as provided by said several contracts.

Your petitioner further shows that the furnishing of said cars to said railway company under the provision of said contract as hereinbefore set forth, was and is in the nature of supplies furnished by said car company, and was and is an operating expense and a current expense incident and necessary to the operating of said railway, by means whereof said railway company has been *unable* to

539 transact its said business, and to earn the greater part of whatever moneys it has earned and received for the payment of its debts or for its own use, since the said cars were delivered to said company for use as aforesaid; and petition says that it is informed, and upon information received believes, that prior to the 1st day of December, 1874, and before the appointment of the receiver herein, the said railroad company, partly by means of the use of the cars of this petitioner, earned large sums of money, and acquired large profits in the transaction of its said business, far more in amount and sufficient to pay the then operating expenses of said railway, and the rental accruing and falling due to this petitioner as the part of said operating expenses, but that said railway company, instead of applying the earnings made by it by the use of petitioner's cars and by its general business to the payment of the rental due to petitioner, and its other operating expenses and supplies, it expended large sums of money acquired by the use of petitioner's cars and in the transaction of its general business, in the construction and completion of portions of the line of said railway and in adding betterments thereto, and in payment of interest coupons and for other purposes.

540 And petitioner further says that under and by the terms of the order appointing the receiver, by and among other things the court *ordered* that out of the money coming into the hands of the receiver he should pay first all current expenses incident to the administration of the trust and the operating of said railroad, including all sums due to connecting intersecting lines of roads, received from their interchange of business heretofore done with such connecting or intersecting lines, and allamounts legally due from said railway company for taxes, county, state, or special, and all amounts due to all operatives, employees and agents of said railway, for any services rendered to said railway since the 1st day of July, 1874;

next all amounts due for supplies furnished and used in operating said road and furnished since the 1st day of July, 1874; and petitioner says that of the amount due to the petitioner from said railway company, as hereinbefore set forth, the sum of $84,027.65 and interest accrued after said 1st day of July, 1874; and that since the appointment of said receiver, and while he has had control of said line of said railway, and while he has operated the same, as your petititioner is informed and believes, large sums of money
541 have been earned by the operation of said railway, but that instead of applying the same to the payment of indebtedness falling under the terms of said order of appointment, the said receiver has applied said money in payment for betterments upon said railway, and for other purposes, to an amount more than sufficient to have paid in full the said amount accruing and falling due to your petitioner after the 1st day of July, 1874, as hereinbefore set forth, and has wholly failed to pay said indebtedness covered and described by the said order of appointment. And petitioner says that the said whole amount due from the said railway company to this petitioner, being in the nature of supplies furnished, and being operating expenses, and a current expense incident and necessary to the operating of said railway, to enable said company to transact its business, is of right and in equity a prior lien upon the property and income of said railway, prior in equity to the lien of said cross-complainants by reason of the facts hereinbefore set forth; petitioner therefore prays that this its petition may be received and filed in said cause, and that the said the Farmers' Loan and Trust Company, cross-complainant in said cause, and any and all other of the trustees
442 of the different mortgages executed by said railway company, and the Indianapolis, Bloomington and Western Railway Company, may be required, by the order of the court, to answer and plead to this, your petitioner's petition, as to a cross-bill; and petitioner prays that, upon the final hearing, the receiver herein may be ordered and directed to pay to petitioner, out of any money in his hands, or that may come into his hands, belonging to said trust or arising from the proceeds of the business of said railway company, the indebtedness of said railway company to this petitioner, accruing and falling due prior to the 1st day of December, 1874, as hereinbefore set forth, at such time and in such manner as the court shall decree just and proper; and to this end that an account may be taken between petitioner and said railway company, and between petitioner and said cross-complainant, as representing the property and ownership of said railway company, showing the exact amount due to petitioner for the use and rental of the cars of your petitioner, and for the destruction and loss of certain of the cars of petitioner prior to the appointment of said receiver, to wit, prior to the said 1st day of December, 1874, and that an order and decree may be entered in this cause requiring the same to be paid as hereinbefore
543 prayed, and in event that the income of said railroad in the hands of said receiver, or that may come into his hands, shall

be insufficient to pay the operating expenses of said railway and the indebtedness to this petitioner, then and in that case petitioner prays that, upon the foreclosure of the mortgage upon said railway, as prayed by the cross-complainant herein, the Farmers' Loan and Trust Company, the amount due this petitioner may be decreed and held to be a prior and first lien upon the property of said railway prior to the lien of said mortgages and trust deeds, and that the same may be held and decreed to be paid out of the first moneys arising from the sale of said railway and property upon said foreclosure; and petitioner will ever pray, &c., &c.

McDONALD AND BUTLER,
Solicitors for Petitioner.

544 I, John M. Butler, being first duly sworn, upon oath state that I have heard read the foregoing petition; that I am one of the attorneys of petitioner therein named, the Western Car Company; that all of the facts stated in said petition to be true are true in fact, and the statements therein made on information and belief affiant believes to be true as stated therein.

JOHN M. BUTLER.

Subscribed and sworn to before me this day of A. D. 1877.

[The contracts and papers set forth and referred to in the foregoing petition are omitted from the record at this place, the same being set forth fully in the evidence.]

[Folios 545 to 571, both inclusive, were erased in the original copy.]

572 And afterwards, to wit, at the November term of said court, on the 9th day of March, 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the cross-complainant, the Farmers' Loan and Trust Company, by Messrs. Williams, Burr and Capen, its solicitors, and files its replication to the answer of the Western Car Company herein, in the words following, to wit:

And the said Farmers' Loan and Trust Company, for replication to the answer of the Western Car Company to the cross-bill and supplement thereto filed by the said Farmers' Loan and Trust Company in this cause, says: That the said answer, so far as it denies any of the allegations in the said cross-bill and supplemental cross-bills, or so far as it sets up new matter in avoidance of the relief therein prayed for, is not true, and that each and every allegation in the said cross-bill and supplemental cross-bills is true, and this complainant is ready to prove and maintain the same in such manner as may be directed by this honorable court, and prays relief as in and by said cross-bill prayed.

THE FARMERS' LOAN AND TRUST COMPANY,
By WILLIAMS, BURR & CAPEN,
Its Solicitors.

573 And afterwards, to wit, at the November term of said court, in recess thereof, on the 10th day of April, 1877, the following further proceedings in the above entitled cause were had, to wit:

Comes now the Farmers' Loan and Trust Company, by Messrs. Williams, Burr & Capen, its solicitors, and files its answer to the intervening petition of the Western Car Company herein, in the words following, to wit:

And the said Farmers' Loan and Trust Company, for answer to the intervening petition of the Western Car Company filed in this case, or to so much or such parts thereof as it is advised it is necessary for it to answer unto, answering, says:

1st. That it denies the making of any such contracts between the said Western Car Company and the said Indianapolis, Bloomington and Western Railway Company, as it is set out in said intervening petition, or either or any of them, but calls for strict proof of the same if the said petitioner considers them material.

2d. It denies any indebtedness from the said Indianapolis, Bloomington and Western Railway Company to the said Western Car Company, and calls for strict proof of the same.

3d. It says if any such contracts were made between the said Western Car Company and the said Indianapolis, Bloom-
574 ington and Western Railway Company as are set out in said petition, the same were fraudulent and invalid, being made between the said Benjamin E. Smith and Clark R. Griggs, with themselves, as they were president and vice president of the said railway company, and were, in fact, the said car company, or largely interested therein, the said Smith being a director and president of said car company, and the said Griggs a director in the said car company, and that said pretended contracts, if any such were made, were made to defraud the said railway company in violation of the trust and duty imposed on said Smith and Griggs as president and vice president of said railway company, and said rental was exorbitant, being a rental of thirty-three per cent. per annum of the cost of the cars, and the cars to be kept in repairs and returned in good order.

Said pretended contracts are void as being fraudulent, and they are void as being against public policy.

4. It denies, even if any such contracts were made and that they are not void in law, and that any indebtedness exists under the same from the said railway company to said car company, that such indebted-
ness is any lien on the property or earnings of said railway
575 prior to the lien of the said deeds of trust or mortgages to the respondent. But this respondent says that the debts secured by the said two trust deeds or mortgages to this defendant set up in its cross-bill are the first lien on all the property and income of the said railway company.

5. It further denies that the said railway company ever did make any net earnings.

6. It denies that any of the net earnings of said railway company went into betterments to the said property.

7. It says that the proceeds of the bonds secured by the said trust deeds to this respondent, and the subsequent trust deed to Dennison & Turner, are more than sufficient to build and equip said road as it was built and equipped.

8. It denies each and every allegation in the said petition not herein expressly admitted.

9. It thereby denies that the said receiver has ever earned more than enough to pay ordinary operating expenses of said road.

10. It denies all equity or pretended equity in the said intervening petition, and now prays that it may be hence dismissed with its reasonable costs; and as in duty bound, etc.

WILLIAMS, BURR & CAPEN,
Solicitors for F. L. and T. Co.

It is stipulated that a general replication was filed by the Western Car Company to the foregoing answer of Farmers' Loan and Trust Company.

576 Here follows the report of Henry W. Bishop, master in chancery, on the application to remove George B. Wright, receiver, filed at Springfield, Ills., June 1, 1877:

In compliance with the above order of the court, I have been attended by the parties interested and have heard the testimony taken in support of the application, or otherwise, and examined the records of the cause so far as they have been referred to or relate to the matter involved in this inquiry, and have heard the argument of the respective counsel; and in connection with this report return all the testimony taken by me, together with the exhibits made use of in its preparation.

It is not necessary nor is it desirable that I should refer at length to the mass of testimony that has been taken upon this petition, covering the entire term of the receiver's administration and relating in detail to its management. It is composed entirely of the examination of the receiver himself and his subordinates, together with such exhibits as were produced in the course of the examination, supplemented by such testimony as the record of the case affords. A review of this testimony in detail would in no sense be of advantage to the court in testing the accuracy of my judgment upon its examination; and by reason of the fact that the respondent has introduced no witnesses whatever in his own behalf, but submitted the case as presented by the petitioners, no opportunity is afforded of such
577 a consideration of the facts upon the one side and the other leading to a conclusion as would otherwise exist or be desirable.

In view of the importance of this application to Gen. Wright, it is my duty, and I may add my pleasure, to say that during the whole

examination no charge has been made affecting his personal integrity, and the testimony throughout is absolutely free from even a suggestion of personal or official misconduct. It is true that complaints were made to him from time to time, both on the part of the bondholders' committee and their counsel, but such complaints are shown to have related purely to matters involving the exercise of judgment or discretion, where prudent and wise men might have conscientiously differed. But I do not remember an instance to have been shown where a dishonest purpose was involved, or a determined intent upon the part of the receiver to act indiscreetly. Many instances are shown where there was decided disagreement as to policies, and no yielding on the part of Gen. Wright when a strong pressure was made, but nothing further. As to the propriety of these policies, and as to the line pursued generally by the receiver in the exercise of his trust, I have not had the benefit of the examination of other gentlemen familiar with the management of railroads, and I have therefore been left to deal with the case, deprived of such tests as perhaps should have been applied to it in the way of expert testimony. It is to
578 my mind a misfortune that such tests were not afforded, so that both parties might have had the benefit of them, and the inquiry in this way relieved of every possible doubt or difficulty. This course could easily have been resorted to, and would have been the most natural and satisfactory way of arriving at an intelligent solution of nearly, if not quite, all the questions in this inquiry, and in the absence of this, the explanations afforded by the witnesses from whom the essential facts of the case are derived, must be mainly depended upon in arriving at conclusions, except as to such matters as necessarily become the subjects of independent judgment.

The period during which this trust has been held by the receiver, and especially that which is referred to more distinctly by the specifications, is shown to have been one most difficult and trying with our Western railroads, and perhaps unparalleled in the history of railroad interests in this part of the country, and the want of success and positive loss which are shown to have occurred during these times are so distinctly traceable to causes arising from the great snows of the winter, low freights, failure of crops and new and formidable competing combinations not only with parallel lines, but also with the leading trunk roads, that the charges urged against the receiver for their result seem to my mind unfair and
579 unjust, though I do not think they were intended as such. And to complain of the management that in the midst of the temporary embarrassments and serious difficulties arising from these sources, he had not attempted a sudden reduction of expenses and withdrawal of trains, when a constant hope for the better was all the time entertained, and when such a course would have involved an apparent, if not practical abandonment of the more substantial business of the road, as certainly would not have been justified under the circumstances and conditions then existing.

The refusal of the receiver to change the general management of

the property when solicited to do so by the bondholders' committee, or their counsel, the hiring of freight cars in excess of what were reasonably required, and the issuing of certificates without authority, as was claimed, and the unnecessary expenditure upon the road and its equipment, constitute the substantial charges against the receiver. The other and minor specifications, I understand, have been abandoned, or, at least, not seriously insisted upon. Those relating to the salaries paid the officers of the road and the increase of compensation given them, do not seem to entitled to any special consideration. The corps of officers is not shown to be any larger than the business of the road requires, and the intelligence and ability with which they have discharged their several duties are,
580 with perhaps one or two exceptions, singularly conspicuous. At all events, there is nothing irregular or improper shown to have existed in this connection, and I think it is proper that I should therefore dismiss any further consideration of these particular charges. It must not be forgotten that when Gen. Wright assumed possession of the road it was in the worst possible condition, hardly capable of being used at all, and requiring an immediate and large expenditure of money to render it even safe for the transaction of business; with its pay-rolls unsatisfied for quite a length of time, and with an impaired and diminished equipment, and, in fact, lacking nearly all the conditions necessary to its successful administration. To meet this exigency, he was obliged to resort to the court for authority to issue certificates, and in this way to obtain the means not only of practically restoring the property, but also of sustaining it until such a return of business could be brought about as would render the traffic profitable.

In this hope, and with such endeavor, it may not have been strange that his expenditures for an additional equipment and in other necessary directions proved to be beyond the actual requirement of the road, and that the permanent improvements made by him may not have been, to their entire extent, warranted by the experience
581 which followed; but I think the testimony shows that they were not in excess of what a reasonable and prudent man might have employed upon the property. How far the issuance of certificates and these expenditures were authorized by the court from which the receiver derived his appointment, is not distinctly shown. Gen. Wright testifies that he was authorized by the court and by the concurrent agreement of the parties interested. It is apparent that, in the earlier history of the case, the parties and their counsel were often before the court where he was appointed, when arrangements, to some extent at least, relating to the course of the receiver were mutually agreed upon, but in regard to some of which the memory of counsel has become now quite variant. The testimony, however, as to the necessity of these expenditures and the faithful application of the money is very clear to my mind, and had the receiver realized in the returning prosperity—which it certainly was not unreasonable for him to anticipate—the natural increase of his business, it is very

easy to discover, from the data furnished from this examination, that all of these investments would have resulted in positive benefit to the trust. The testimony upon all of these points is very full
582 and specific, and as I return it herewith, it is not necessary to refer to it in detail. It includes within its range all the inquiries raised by the specifications.

I have examined all of this testimony carefully, and have heard with unusual interest the eminent counsel who have presented the case. The application is one of more than ordinary moment, involving as it does large money interests upon the one side, represented by discouraged and disappointed bondholders, and upon the other the representations of the respondent and all the serious consequences of his displacement from a position of trust and responsibility.

An examination of the case, however, leaves no uncertain impression upon my mind, and finding as I must and do, from the evidence, that no one of the specifications has been sustained, I respectfully recommend that the petition be dismissed.

In explanation of this conclusion I have not deemed it necessary to take up the specifications singly. Although they are stated separately, as required by the order of the court, they are really comprised under one general head of mismanagement and incompetency, and in that way may be more conveniently considered. To
583 review the facts in detail would only burden the court with a repetition of very much that has already been presented at length in a former proceeding, and it is in view of that fact I return my conclusion in this form.

It is possible that the intimations lately made by the court of an entry of a decree in this cause at an early day rendered further action by me under the order referring the application no longer necessary; but it was desired, upon the part of the petitioners, that a report should not for this reason be delayed, and it might not have been quite right toward the respondent, in view of all that is involved in this application with him personally, to have made no disposition of the order. In any case I deem it proper to present in as brief a form as possible to the court the conclusions that came to me from an examination of the whole case.

Respectfully submitted,

HENRY W. BISHOP,
Special Master.

584 And afterwards, to wit, at the May term of said court, on the 4th day of June, 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Now, on the fourth day of June, 1877, come the parties, complainants and defendants, in the said bill and cross-bills herein, by their attorneys, and it is ordered by the court that John D. Howland and Livingston Howland, Esq., both of the city of Indianapolis, In-

diana, be and they are hereby appointed joint special masters in chancery for the district of Indiana and the southern district of Illinois, to take the evidence and report the same together with their findings thereon to the court upon and relative to the several matters and issues hereinafter named, which said several matters and issues are hereby referred to said special masters, to wit:

1st. In the matter of the intervening petition and answer of the Western Car Company, said special masters are to ascertain and report the evidence and their findings thereon relative to the reasonable and fair rental value of the cars belonging to the said Western Car Company and in the use and possession of the Indianapolis, Bloomington and Western Railway Company for the six months next previous to the 1st day of December, A. D. 1874; and
585 are also to report whether or not it may be necessary and for the interest of the Indianapolis, Bloomington and Western Railway Co. to hire and use the same in whole or part.

It is further directed that the said special masters shall receive as testimony upon said reference and consider all of the testimony heretofore taken in the matter of the same intervening petition and answer of the said Western Car Company, each party having the right to introduce any desired additional testimony pertinent to the issue upon said rental value.

2d. To ascertain and report to the court the evidence, together with their findings thereon, as to what distribution shall be made of the rolling stock of the whole railroad as now operated as a unit between that of said railroad known as the main line and that part known as the extension, so that each of said parts shall have and hold its just and equitable proportion of said rolling stock, unless the parties agree upon a distribution of said rolling stock without the taking of testimony with reference thereto.

3d. To ascertain and report to the court the evidence, together with their findings thereon, relative to and making a just and correct apportionment and division between the said "main line"
586 and the said "extension" of the indebtedness growing out of any allowances made by the court for back pay, supplies, and operating expenses incurred and accrued within six months previous to the commencement of said receivership.

4th. To ascertain and report to the court the evidence, together with their findings thereon, relative to the issue joined upon the intervening petition of the Paris and Danville Railroad Company, by James A. Eads, its receiver, filed herein.

5th. To ascertain and report to the court the evidence, together with their findings thereon, touching the true and just amount due upon each claim or petition presented to the receiver or to the court for payment of labor, supplies, and operating expenses performed for and furnished to said Indianapolis, Bloomington and Western Railway Company between the 1st day of June, A. D. 1874, and the date of the commencement of said receivership, provided that each claim or petition so presented to the receiver or to the court

shall state the exact date the indebtedness accrued, what the indebtedness accrued for, where the indebtedness accrued, and what amount thereof remains unpaid, and the claimant or petitioner
587 shall make affidavit to the correctness of his said claim or petition.

6th. To ascertain and report to the court the evidence, together with their findings thereon, relative to the issue joined upon the intervening petition of F. A. W. Davis and others filed herein.

And it is further ordered that in case of the absence or inability to act of one of the said commissioners to whom the foregoing matters are referred, the other commissioner shall have power to proceed, hear the testimony, or to report to the court, the intention being hereby to confer full authority on one of the commissioners to act in the absence or inability of the other.

588 And afterwards, to wit, at the May term of said court, on the 23d day of June, 1877, before the Honorable Walter Q. Gresham, one of the judges as aforesaid, the following further proceedings in the above entitled cause were had, to wit:

Comes now James A. McKenzie, by Mess. Porter, Fishback and Porter, his solicitors, and files his petition and claim herein in the words following, to wit:

To the Honorable the Judges of the Circuit Court of the United States for the District of Indiana and the Northern District of Illinois:

Your petitioner, James A. McKenzie, represents unto your honors that he is and for some time has been a merchant doing business at the city of Indianapolis, in the State of Indiana; that his business is that of a clothing merchant; that while engaged in said business and after the appointment of General George B. Wright as receiver herein, he learned from the statements of various officers, agents and employes of the said Indianapolis, Bloomington and Western Railway Company that the courts having jurisdiction of the said receivership had ordered and decreed that "all amounts due to all operatives and employes and agents of said railroad for any services rendered said railroad since the 1st day of July, 1874, and all amounts due for supplies purchased and used in operating said
589 road and furnished since the said 1st day of July, 1874, should be paid by said receiver out of the money coming into his hands as such receiver after paying the current expenses of operating said road and the taxes owing by said railway company." That upon inquiry he learned that the information so received by him was correct, and that such an order and decree had in fact been made in said cause; that he afterwards learned from the same source that said order and decree of said courts had been amended or modified so as to include within its provisions "the payment of all back-pay rolls or certificates or vouchers for labor, and that all such payments be made pro rata upon all amounts due."

Your petitioner further shows that after said orders were made

many of the laborors, employes, operatives and agents of said railroad company, to whom various sums of money were due for labor and service rendered by them to said company within the periods named in said orders and decrees of said courts, were desirous of buying clothing from your petitioner, and proposed that if petitioner would sell to them they would pay therefor in the vouchers held by them issued by said company for such labor and service performed.

Your petitioner believing that said vouchers would be paid according to the order of said court and relying thereon did sell to said laborers, employes and agents large quantities of clothing, to
590 wit, over seven thousand dollars' worth, and did receive in payment therefor the vouchers of said company for back pay and service and supplies, to the amount of seven thousand dollars and upwards.

Your petitioner further says that after said vouchers came into his possession said receiver paid ten per cent. thereof on the first day of February, 1876, and that since that time no other payments have been made thereon.

Your petitioner annexes to this his petition and makes a part hereof a schedule showing each claim now held by him and presented hereby with the exact date when said indebtedness accrued, what said indebtedness accrued for, where the same accrued, and what amount thereof remains unpaid, and he says that as some of the items for service, such as the service of conductors and others who operated along the whole line, he has not been able to be as specific as to the places where such services were rendered as he has been in relation to other kinds of service, but he has made as full an exhibit thereof as he can make with the information within his knowledge or command.

Petitioner says that said exhibit and schedule are fair and true and that the balance of principal due thereon is six thousand and seven hundred and ninety-two dollars and fifty-three cents ($6,792.53.)

Petitioner has in his possession the original vouchers named
591 in said schedule and will produce the same in court or before the master in chancery to whom these matters have been referred at such place and time as may be desired or ordered.

Wherefore your petitioner prays that the amount so due him may be allowed as a claim against the funds in the hands of said receiver, or any funds which may come to his hands, or against the property of said Indianapolis, Bloomington and Western Railroad Company, or any fund realized by the sale thereof under the order or decree of said courts, and that said claim may be allowed such preference and priority as may be just and equitable. And your petitioner prays for all proper relief.

PORTER, FISHBACK & PORTER,
For Petitioner.

[Folios 592 to 606, both inclusive, were erased in original copy.]

607 STATE OF INDIANA, } ss.
Marion County, }

James A. McKenzie, being sworn on his oath, says that of the above amount of orders $7,645.58, all were received at par except the orders taken for one day's sales, and this amount so taken would not exceed $200. That amount was received at a discount of from 5 to 6 per cent.; all the others were received and taken at their par face value. The goods for which these were received were sold at the regular marked retail price and not higher.

J. A. McKENZIE.

It is agreed that the above and foregoing statement shall be accepted as correct and considered as evidence in the said intervening petition.

C. W. FAIRBANKS,
Sol. for Bondholders.

It is agreed that the foregoing petition was properly filed and verified, and the exhibits therein referred to are satisfactory, and are omitted from the record without prejudice to either party.

608 And afterwards to wit, at the May term of said court, on the 18th day of July, 1879, before the Honorable Walter Q. Gresham, judge of said court, the following further proceedings in the above entitled cause were had, to wit:

Now again, on this 11th day of July, come the parties in open court by counsel, and upon motion the order heretofore entered herein referring this cause to John D. and Livingston Howland, Esqs., as special masters to take certain proofs herein, be and the same is so amended as to require the proof of all claims so to be presented to said masters to be referred and completed on or before the 15th day of September, 1877, and all claims not presented or proved before said masters or before the court on or prior to that date shall be forever barred and foreclosed except on application to the court in special cases; that said masters shall give reasonable notice of said order of reference and of this limitation, and of the time and place they will sit to take proof of such claims, by publication in one newspaper published in the city of Bloomington, in the State of Illinois, and in the city of Indianapolis, in the State of Indiana, and shall make report of their doings herein on or before the 15th day of October, 1877.

609 And afterwards, to wit, at the May term of said court, on the 7th day of August, A. D. 1877, before the Honorable Thomas Drummond and the Honorable Walter Q. Gresham, judges of said court, the following further proceedings in the above entitled cause were had, to wit:

610 In the Circuit Court of the United States for the District of Indiana.

TUESDAY MORNING, August 7th, A. D. 1877.

Present—Honorables Thomas Drummond and Walter Q. Gresham, judges.

4427	MALCOLM C. TURNER and others *v.* THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY and others.	Original Bill.
	THE FARMERS' LOAN AMD TRUST COMPANY *v.* THE INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY COMPANY and others.	Cross Bill.
	CHARLES W. SMITH and ROBERT TURNER *v.* THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY and others.	Cross Bill.
	JOSEPH T. THOMAS and BENJAMIN E. SMITH *v.* THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY and others.	Cross Bill.
	JOHN E. RISLEY *v.* THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY and others.	Cross Bill.

611 Ordered by the court that the decree in this cause which was certified to this court as of date July 24, 1877, be entered now as then.

This cause coming on to be heard at this term of the court on the original and various cross-bills and the answers and replications thereto, and upon the exhibits filed with the said several bills and the documentary evidence, proofs as shown by the stipulations on file, and reports of master of proofs taken in this cause and in the cause between the parties hereto in the United States Circuit Court for the southern district of Illinois, which are by agreement used in both cases, and the cause having been argued by counsel, and the court being fully advised doth find the equity of the case to be with the complainant in the cross-bill of the Farmers' Loan and Trust Company, and that all and singular the allegations and charges in the said cross-bill of said last named complainant are true, and particularly—

1st. That prior to and on July 12th, 1869, there was a railroad corporation existing under the general laws of the State of Indiana called the Indianapolis, Crawfordsville and Danville Rail

road Company, and that prior to April 1st, 1869, and on July 12th, 1869, there existed in the State of Illinois, under and in pursuance of the laws thereof, a corporation called the Danville, Urbana, Bloomington and Pekin Railroad Company.

2d. That on the 1st day of April, 1869, said last named railroad company caused to be executed and issued two thousand
612 bonds of one thousand dollars each, numbered from one to two thousand inclusive, payable in gold coin on the first day of April, A. D. 1909, at the office of said Farmers' Loan and Trust Company in the city of New York, with interest at the rate of seven per cent. per annum in gold coin, payable semi-annually on the first days of April and October in each year, for which said several installments of interest coupons or interest warrants were attached to each of the said bonds—and that to secure the payment of said bonds and the interest coupons thereto attached, the said last mentioned railroad company on the said first day of April, 1869, duly made, executed and delivered to said complainants, the Farmers' Loan and Trust Company, as trustee, a mortgage or deed of trust of even date with said bonds, in and by which said railroad company conveyed to said trustee all and singular the property, rights and franchises of said railroad company then held or thereafter to be acquired, as described and set forth in said mortgage, and which embraced the whole of the line of railroad of said company and appurtenances as an entirety, which said mortgage was duly filed for record in the various counties in or through which said railroad was located and built; and that the same is a valid conveyance for the purposes therein mentioned, and as such is a paramount lien upon the said railroad as located and built by said company from Pekin, in Tazewell county, Illinois, eastwardly through Bloomington, Champaign, and Danville to the eastern boundary line of the
613 State of Illinois, and the property and franchises of said corporation thereby conveyed, and is entitled to priority in the distribution of the proceeds of any sale of the property covered thereby, to be made pursuant to this decree, over any other claim or lien against the same, except as hereinafter set forth and provided.

3rd. That afterwards, to wit, on the 12th day of July, in the year 1869, under and by virtue of the laws of the said States of Illinois and Indiana, the said the Danville, Urbana, Bloomington and Pekin Railroad Company, and the said the Indianapolis, Crawfordsville and Danville Railroad Company, by articles of consolidation duly entered into between them, which were duly ratified by the boards of directors and stockholders of the said several companies, consolidated their stock and property and became one corporation under the name and style of the Indianapolis, Bloomington and Western Railway Company, by means of which said consolidation, and by virtue of the laws aforesaid in that behalf, the said new corporation became vested with all and singular the property, estate, privileges, and franchises of the said two corporations, and subject to all the debts, liabilities, and obligations of the said two corporations; that

afterwards, to wit, on the 1st day of October, in the year 1869, the said consolidated company caused to be executed and issued three thousand (3,000) bonds numbered from one (1) to three thousand (3,000), both inclusive, each for the sum of one thousand
614 dollars, payable in gold coin, free of government tax, on the first day of October, in the year 1909, with coupons or warrants thereto attached for the payment of interest thereon at the rate of seven per cent. per annum in gold coin, payable in the city of New York, on the first days of April and October in each year; and that to secure the payment of the said bonds and the interest warrants thereto attached, and to secure the payment of two thousand (2,000) other bonds of like tenor and effect which were never issued or sold, the said consolidated company, that is to say, the said the Indianapolis, Bloomington and Western Railway Company, on the first day of October, A. D. 1869, executed and delivered unto the said complainant, the Farmers' Loan and Trust Company, as trustee, a mortgage or deed of trust conveying its entire line of railroad, lying, being, and extending from Indianapolis, in the State of Indiana, to Pekin, in the State of Illinois, and all its property thereunto belonging or appertaining, then held or thereafter to be acquired, and specifically mentioned and described in the said complainant's cross-bill, and embracing the whole of said line of railroad and appurtenances as an entirety, which said mortgage was duly filed for record and recorded in the various counties in the said States of Indiana and Illinois, in or through which the said consolidated line of railroad was located and constructed, and the same is a valid conveyance for the purposes therein mentioned, and as such is a
615 paramount lien upon the said railroad and the property and franchises of the said corporation conveyed by the said mortgage or deed of trust, and is entitled to priority in the distribution of the proceeds of any sale of the said property to be made pursuant to this decree over any other lien or claim against the same, except the said above mentioned lien of the said mortgage or deed of trust made by the said Danville, Urbana, Bloomington and Pekin Railroad Company upon the property therein described, and further excepting as hereinafter set forth and provided.

4th. The court doth further find that the said Indianapolis, Bloomington and Western Railway Company, afterwards, to wit, on the 1st day of October, A. D. 1870, caused to be executed and issued fifteen hundred other bonds, called second mortgage bonds, numbered from one to fifteen hundred inclusive, each for the sum of one thousand dollars, bearing interest at the rate of eight per cent. per annum, payable semi-annually on the first days of January and July of each and every year; for which said several installments of interest, coupons or interest warrants were attached to each of the said bonds, and that to secure the payment of said bonds and the interest coupons thereto attached, the said Indianapolis, Bloomington and Western Railway Company, on the said 1st day of October, A. D. 1870, as by its charter it was duly authorized, and under the order of its

board of directors, did duly make, execute and deliver a cer-
616 tain other trust deed or mortgage, called a second mortgage, conveying to William Dennison and Benjamin E. Smith, as trustees for the uses therein expressed, all and singular its entire line of railway extending from Indianapolis, in the State of Indiana, westward to Pekin, in the State of Illinois, together with all and singular the property, rights and franchises of said railway company then held and enjoyed, together with all property it might thereafter acquire, as is more particularly described and set forth in said mortgage, embracing the whole of said line of railroad and appurtenances as an entirety, and that said mortgage was thereafter, to wit, in the said month of October, A. D. 1870, duly filed for record in all the various counties through which the said road passes in the States of Illinois and Indiana, and is a valid conveyance for the purposes therein set forth, and as such is a paramount lien upon said railroad property, rights and franchises of said company, and is entitled to priority in the distribution of the proceeds of any sale thereof to be made pursuant to this decree, over any other lien or claim against the same, except the said above mentioned lien of the said mortgage of the Danville, Urbana, Bloomington and Pekin Railroad Company, and the lien of the said first mortgage of the said Indianapolis, Bloomington and Western Railway Company hereinbefore described, and further excepting as hereinafter set forth and provided.

617 5th. The court further finds that the said two thousand bonds secured by the said mortgage or deed of trust made by the said Danville, Urbana, Bloomington and Pekin Railroad Company to the said Farmers' Loan and Trust Company, were long before the filing of the original bill in this case all put upon the market and sold for value in due course of business, and are all now owned by various persons and corporations, and that the principal of said bonds, together with the said installments of interest thereon that fell due on the first day of October, 1874, and on the first day of April, A. D. 1875, and on the first day of October, A. D. 1875, and on the first day of April, A. D. 1876, and on the first day of October, A. D. 1876, and on the first day of April, A. D. 1877, with interest on the said several installments of interest from and after their respective dates of maturity, together with interest on the principal of said bonds from and after the first day of April, A. D. 1877, remain wholly unpaid; and the court further finds that prior to the filing of the amended cross-bill of the said Farmers' Loan and Trust Company herein, the holders of more than one half of said last named bonds had made demand in writing on the said Farmers' Loan and Trust Company to proceed to the foreclosure of said mortgage. The court further finds that demand for the payment of the said several installments of interest was duly made at the date of the maturity of said interest coupons respectively, and
618 payment thereof was then and there refused.

Wherefore the court finds that the principal of said bonds

has become due and payable, and that there is now due and owing for principal and interest of said two thousand bonds the sum of two million four hundred and ninety-six thousand three hundred and forty-three dollars.

6th. The court further finds that the said three thousand bonds secured by the said mortgage or deed of trust made by the said Indianapolis, Bloomington and Western Railway Company to the said Farmers' Loan and Trust Company, of date of October 1st, 1869, were before the filing of the original bill herein put upon the market and sold for value in due course of business, and are now held and owned by various persons and corporations, and that the principal of said three thousand bonds, together with the various installments of interest thereon that fell due on the first day of October, A. D. 1874, 1st day of April, A. D. 1875, 1st day of October, 1875, 1st day of April, A. D. 1876, 1st day of October, 1876, and 1st day of April, A. D. 1877, with the interest on the said several installments of interest from the dates of their several maturities, together with the interest on the principal of said bonds from the first day of April, 1877, remain wholly unpaid.

The court further finds that the payment of the said several installments of interest was duly demanded at the dates of their maturity as aforesaid, and on such demand payment was refused.

619 The court further finds that prior to the filing of the said amended cross-bill of the said Farmers' Loan and Trust Company, demand was made in writing by the holders of more than one half of said three thousand bonds on the said trustee, the said Farmers' Loan and Trust Company, to foreclose said mortgage, wherefore the court finds that the principal of said bonds has become due and payable, and there is now due and owing for principal and interest of said three thousand bonds the sum of three million seven hundred and forty-four thousand five hundred and fifteen dollars.

7th. The court further finds that the said fifteen hundred bonds secured by the mortgage or deed of trust made by the said Indianapolis, Bloomington and Western Railway Company to the said William Dennison and Benjamin E. Smith, were before the filing of the original bill herein put upon the market and sold in due course of business for value, and are now owned and held by various persons and corporations, and that said one thousand five hundred bonds, together with the various installments of interest thereon that fell due on the 1st day of July, 1874, 1st day of January, 1875, 1st day of July, 1875, 1st day of January, 1876, 1st day of July, 1876, 1st day of January, 1877, and 1st day of July, 1877, together with interest on the said several installments of interest from the dates of their maturity respectively, together with interest on said one thousand five hundred bonds from the said 1st day of July, 1877,

620 remain wholly unpaid, and that the payment of the said several installments of interest was duly demanded at their maturity, which was refused, wherefore the court finds that the principal sum of said one thousand five hundred bonds is now due, and that

there is now due and unpaid of principal and interest of said bonds the sum of nineteen hundred and sixty-four thousand five hundred and sixty-two dollars.

8th. It is therefore considered, adjudged and decreed by the court that the defendant, the said Indianapolis, Bloomington and Western Railway Company, pay to the said complainant in the cross-bill, the said Farmers' Loan and Trust Company, the said amounts above found to be due on the debts secured by said two indentures made to the said Farmers' Loan and Trust Company, to wit, the sum of six million two hundred and forty thousand eight hundred and fifty-eight dollars, together with interest thereon at the rate of six per cent. per annum from and after the date of this decree, and together with the costs of this suit, taxed at $, within seventy days from this date; and that in default of such payment by the said Indianapolis, Bloomington and Western Railway Company in the time aforesaid, and that in default of such payment by all of the said defendants in such time, it is further ordered, adjudged and decreed that the equity of redemption of all of the said defendants to the said cross-bill of the said Farmers' Loan and
621 Trust Company in said mortgaged property be forever barred and foreclosed, and that the said Indianapolis, Bloomington and Western Railway Company hereinbefore mentioned as covered by the two mortgages to complainant, the Farmers' Loan and Trust Company, including the rights of way therefor, the road-bed thereof, the superstructures of all sorts thereon, its water and other stations and shops, the lands and grounds connected therewith, and tools or implements owned or provided to be used therein, and in constructing and repairing cars and machinery for said road or the track and the superstructures aforesaid, and all fixtures and structures of whatever name or nature, and the lands and grounds connected therewith, used or provided to be used in operating said road wherever situated, and all cars, engines and rolling stock belonging to said company, (except as hereinafter expressly excepted,) and all supplies and other things provided by the said company, or by the receiver thereof, to be used in operating said road, together with all corporate franchises of said company and of the said original companies, that is to say, the said the Danville, Urbana, Bloomington and Pekin Railway Company, the Indianapolis, Crawfordsville and Danville Railroad Company, and the said the Indianapolis, Bloomington and Western Railway Company, including the right and franchises of said several companies, to be and act as corporations so far as the same relates to the main line—be sold as hereinafter ordered and directed and as an
622 entirety, the same being in the opinion and judgment of this court incapable of being sold separately or in divisions, without material injury to the value thereof.

9th. And it is further ordered and decreed that the said mortgaged property be sold without appraisement, and without reference and not subject to any law or laws of the said States of Illinois or Indiana conferring rights of redemption from mortgage sales.

10th. And the court doth order and direct that all and singular the property and effects, rights and franchises of the said Indianapolis, Bloomington & Western Railway Company, and of the said original or constituent companies so ordered to be sold as aforesaid, shall be sold by John D. Howland, the master in chancery of this court, and John A. Jones, master in chancery of the United States Circuit Court for the southern district of Illinois.

11th. And it is further ordered and decreed that the said masters in chancery, at the same time and place, concurrently with the execution of this decree, also execute the decree of the Circuit Court of the United States for the southern district of Illinois for the sale of the said mortgaged property, and that they report their doings in this behalf to this court, and that after confirmation thereof, the clerk of this court shall make a transcript of such report of sale and order of this court confirming the same, and submit the same duly certified to the clerk of said Circuit Court of the United States
623 for the southern district of Illinois, be there entered of record.

12th. And the court doth further order, adjudge, and decree that the said master in chancery, before offering said property, franchises, and premises for sale, shall first advertise the time, place, and terms of such sale, together with a brief general description of such property, in one newspaper published in the city of New York, in the State of New York; one published in the city of Indianapolis, in the State of Indiana, and one published in the city of Springfield, in the State of Illinois, for four consecutive weeks, the first insertion of which shall not be less than thirty days before the day of such sale, and which said sale shall be made by public auction to the highest bidder, at the south door of the court-house, in the city of Bloomington, McLean county, State of Illinois, the same being on the line of said railroad. And the said masters in chancery are hereby authorized and directed to require a deposit to be made by each and every bidder or bidders, which deposit shall be absolutely forfeited to the use of the trusts in the hands of the said complainant, the Farmers' Loan and Trust Company, if the bidder to whom the property shall be struck off shall fail to pay or complete the said purchase in accordance with the terms of said sale and orders of this court.

13th. That said sale shall be made subject to judgments for rights of way, and to all legal and valid claims therefor, and
624 also subject to all sums legally due for taxes, which are a lien prior to said mortgage, and also subject to the provisions of certain contracts of lease and purchase heretofore made with Oliver Adams for five hundred box freight cars by said receiver, which claims, judgments and taxes, and car contracts shall be assumed by the purchaser or purchasers in addition to the amount of the purchase-money so bid.

14th. That of the purchase-money not less than fifty thousand dollars, in addition to the heretofore mentioned deposit of fifty thousand dollars, shall be paid in cash on the day of sale—out of

which two sums, amounting in the aggregate to one hundred thousand dollars, shall be paid all the costs, fees, allowances, and compensation herein provided for, and the expenses of said sale—and on delivery of the deed so much more of the purchase-money shall be paid into court in cash or certificates of receiver's debt, as shall be necessary to pay and discharge the portion of the receiver's debts arising in the operation of the aforesaid main line of railroad, not hereinbefore directed to be assumed by the purchaser, and that portion of all such other claims and sums of money as shall be hereinafter allowed by this court, and the Circuit Court of the United States for the southern district of Illinois, in the cause pending therein hereinafter referred to, in preference to the liens of the hereinbefore mentioned mortgages or deeds of trust for debts due by said railway company for work, labor, supplies, and material done and furnished during the six months next preceding the first day of December, 1874, in the operation of said main line of said railroad, which payment for debts due as last aforesaid for six months prior to Dec. 1st, 1874, shall be made into court without prejudice to the right of the Farmers' Loan and Trust Company to object to the same, and to appeal from any order or orders which may be hereafter made by the court directing the money so paid to be distributed to the various claimants thereof.

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15th. That for the remainder of the purchase-money above the amounts so required to be paid in cash at the time of the sale and at the time of the delivery of the deed as above provided, and as may be hereafter required of the court, the said masters may receive any of the said past-due coupons and of bonds secured by the aforesaid mortages set forth in the said bill of complaint, each such coupon and bond being received for such sum as the holder thereof is entitled to receive under the distribution herein ordered, and according to the priorities herein adjudged.

16th. That after such sale the masters shall forthwith make report thereof to this court, and after the confirmation thereof by the court shall execute and deliver a deed to the purchaser or purchasers of said mortaged premises on their complying with the condition and terms of the said sale, and that such sale shall be thereafter valid and effectual forever.

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17th. And it is further ordered, adjudged, and decreed that after the confirmation of said sale and the delivery of the deed thereunder, the purchaser or purchasers of said property be let into the possession, use and enjoyment thereof; that any of the parties to this action who may be in the possession of said premises or any part thereof, and any person who since the commencement of this action has come into possession of the same or any part thereof, under the said defendants or either of them, and the receiver of this court who may be in possession or have control of the same or any part thereof, under or by virtue of any order of this court heretofore made or hereafter to be made in this suit prior to said sale, shall deliver and surrender possession to said purchaser or pur-

chasers on the production of said masters' deed, or other proper evidence of the sale and purchase of said premises, franchises and property, and shall also surrender and deliver up to such purchaser or purchasers all moneys in his hands arising from the operation of the said road, all books of account and record, legal and other papers, choses in action, claims and property and effects of every nature in his possession or under his control; provided, however, said books and papers shall be at all times subject to inspection and transcription by or on behalf of parties interested in the extension line.

It is further ordered, adjudged, and decreed that such pur-
627 chaser or purchasers shall thereupon be invested with and shall have, hold, possess and enjoy the said franchises, property and premises so sold pursuant to this decree, and all the rights and privileges pertaining thereto, as fully and completely as the said said several corporations, to wit, the said the Danville, Urbana, Bloomington and Pekin Railroad Company, the said the Indianapolis, Crawfordsville and Danville Railroad Company, and the said the Indianapolis, Bloomington and Western Railway Company, or the receivers, had and held the same.

19th. And it is further ordered, adjudged, and decreed that the said masters, after retaining from the proceeds of the sale hereby directed to be made the amount of their fees and expenses, the fees of the said masters for such sale, and all other services rendered by them pursuant to this decree, to be hereafter fixed by the court, if not agreed on by the parties, shall forthwith pay out of the net proceeds of such sale as follows:

1st. The costs of this suit.

2d. Out of the surplus, if any, in the said complainant, the Farmers' Loan and Trust Company, for compensation for its services in this behalf, the sum of five thousand dollars, and in addition thereto the sum of four thousand four hundred and seventy-four dollars, for its incidentals, disbursements and expenses in the carrying on and management of this suit, and the further sum of thirty-two
628 thousand dollars for counsel and solicitor's fees, to be distributed and paid by said master in the manner following, to wit: To J. Augustus Johnson, of New York, the sum of eight thousand dollars; to the firm of Williams, Burr & Capen, twelve thousand dollars; to the firm of Wiley & Parker, the sum of six thousand dollars, and to the firm of Brown & Campbell, the sum of six thousand dollars.

3. Out of the surplus, if any, the following amounts now here found and adjudged and decreed to be prior and superior to the lines of the said mortgages, to wit:

1st. That part of the claims legally due and owing by the said receiver in this cause, incurred by or under the orders of court, and arising in the operation of the main line of the railroad of the Indianapolis, Bloomington and Western Railway Company, from Indianapolis, in the State of Indiana, to Pekin, in the State of Illinois, which sum shall remain unpaid after the application thereto of all

moneys in the hands of the receiver up to the time of the confirmation of the sale herein provided for, properly belonging to the said main line as hereafter apportioned, fixed and determined, except such as are herein directed to be assumed by the purchaser.

2. The amounts due and owing by the Indianapolis, Bloomington and Western Railway Company for work, labor, supplies and materials done and furnished during the six months next preceding the first day of Dec., 1874, in the operation of said main line of said railroad, if any such amounts shall be hereafter found and adjudged to be valid and paramount claims as aforesaid, and because the amounts of said indebtedness are not and can not be known until the coming in of the reports of the special masters, heretofore appointed to ascertain the same, and make report thereof to this court, the said reference is hereby approved and continued, but such reference shall in nowise abridge or impair the right of any of the parties hereto to prosecute and appeal from any order or orders of the court allowing or disallowing said claims, or any part thereof, and declaring the same to be prior and superior to said mortgages.

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4. The surplus, if any, to be distributed between the holders of said two thousand bonds issued by the said Danville, Urbana, Bloomington and Pekin Railroad Company, mentioned in the second clause of this decree, and the holders of the said first mentioned three thousand bonds issued by the said Indianapolis, Bloomington & Western Railway Company mentioned in the 3d clause of this decree, in the manner following: $\frac{1}{2}\frac{1}{0}\frac{7}{2}$ parts thereof to the holders of the said two thousand bonds, and $\frac{8}{2}\frac{5}{0}\frac{}{2}$ parts thereof to the holders of the said three thousand bonds, until the whole amount of said indebtedness respectively shall have been paid off and discharged, the said money to be first appropriated to the payment of the said past-due coupons or interest warrants herein before mentioned, pertaining to the said bonds respectively, then to the interest upon the said several bonds respectively, and then to the payment of the principal of the said bonds respectively.

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5. The surplus, if any, to the holders of the said fifteen hundred bonds issued by the said Indianapolis, Bloomington and Western Railway Company, mentioned in the fourth clause of this decree, said moneys to be first appropriated to the payment of said coupons or interest warrants respectively pertaining to said bonds, and the interest thereon, in the order of their maturity respectively, then to the said interest upon the principal of said bonds, then to the payment of the principal of the said bonds.

6. The surplus, if any, to be paid into the registry of the court for distribution under the further order of the court.

20. And it is further found by the court that at the time of the filing of the said original bill and the appointment of the receiver herein, the said the Indianapolis, Bloomington and Western Railway Company owned and had in use on the line of its said road, and upon the line of railroad in the State of Illinois commonly called

the extension, particularly set forth and described in the said cross-bill filed herein by C. W. Smith and Robert Turner, trustees, which last mentioned line was acquired by the said defendant railway company by purchase from the Havana, Mason City, Lincoln
631 and Eastern Railroad Company, certain rolling stock, all of which is covered by said above mentioned mortgages or deeds of trust to the Farmers' Loan and Trust Company, and the same are first liens thereon, subject to any exceptions contained in this decree, and except the portion thereof hereby ordered to be apportioned to the said extension railway, which portion belonging to the said extension is now here found, and ordered, adjudged and decreed to be as follows, viz: Six (6) locomotives, numbered respectively 11, 31, 33, 32, 40, 41. Four (4) passenger coaches, numbered respectively 9, 11, 15, 21. Three (3) baggage, mail and express cars, numbered respectively 3, 4, 8. Twenty-nine (29) box-cars, numbered respectively 2,003, 2,004, 2,005, 2,006, 2,007, 2,008, 2,009, 2,010, 2,011, 2,012, 2,013, 2,014, 734, 736, 738, 740, 744, 746, 750, 752, 754, 756, 758, 760, 764, 766, 770, 768, 762. Two (2) caboose cars, numbered respectively 24 and 25. Nine (9) hand-cars, numbered respectively 1, 2, 3, 4, 5, 6, 7, 8, 9, and marked "Ex"; nine (9) rubble cars, numbered respectively 1, 2, 3, 4, 5, 6, 7, 8, 9, and marked "Ex"; one (1) boarding car numbered 6; twenty-two (22) coal cars numbered respectively 301, 305, 307, 309, 311, 313, 315, 319, 321, 323, 325, 327, 329, 331, 333, 335, 339, 341, 343, 345, 347, 349; fourteen (14) stock-cars, numbered respectively 402, 404, 406, 408, 412, 414, 418, 420, 422, 424, 430, 432, 434, 410; and twelve (12) flat cars, numbered respectively 83, 91, 97, 99, 101, 103,
632 963, 847, 383, 385, 387, 389, as per agreement on file, all of which said last mentioned rolling stock is hereby declared not to be subject to the liens of the said mortgages to the Farmers' Loan and Trust Company, and is not to pass to the purchaser or purchasers under the said sale. And this decree is made notwithstanding anything therein heretofore contained, subject to the rights of all claims which have been or which may be hereafter made against the property in the hands of the receiver, and which may be adjudged valid by the court and entitled to be paid out of the property or the proceeds thereof.

And it is further ordered that any of the parties to this action may apply to the court for such other or further directions at the foot of this decree as may be necessary to carry it into effect, no question being reserved except the question as to the amount of the claims or sums of money to be allowed as provided in the fourteenth clause of this decree, and so far as the same shall be passed upon by the court, such allowance or disallowance shall take effect as if now incorporated in and passed upon by this decree.

And it is further ordered, adjudged, and decreed by the court, inasmuch as a portion of the mortgaged property in this decree described and referred to is situate in the State of Illinois, and without the State of Indiana, and as a decree of foreclosure

has been entered in the Circuit Court of the United States in and for the Southern District of Illinois in favor of the complainants
633 herein, the Farmers' Loan and Trust Company, upon said mortgaged property, and a sale thereof ordered, and John D. Howland and John A. Jones, masters in chancery aforesaid, have been ordered to make such sale of that portion of said property situated in the said State of Illinois, in conformity with certain rules and regulations in this decree prescribed, that such masters in chancery execute this decree and sell that portion of said railroad property situated in the State of Illinois, at the same time and place, and upon the same terms, and in pursuance of the same notice, together with that portion of said railroad in said State of Indiana as an entirety. And that they report such sale to the said Circuit Court in and for the Southern District of Illinois as such entirety, in pursuance of the directions of this decree, to be by said court approved and confirmed as a sale of such property as an entirety. And that on the coming in of such report and the confirmation thereof by this court, that the clerk of this court certify to the Circuit Court of the Southern District of Illinois for its confirmation a copy of such sale, and the order confirming the same; to this end, it is further ordered, adjudged, and decreed that the clerk of this court do certify and transmit to the said Circuit Court in the said State of Illinois a copy of this decree, saving and
634 reserving all such rights of appeal to the Supreme Court of the United States therefrom as may be exercised by parties hereto in the Circuit Court of the United States in and for the Southern District of Illinois, in conformity with the order and direction of said last mentioned court. And this decree shall in nowise prejudice the rights of complainants, defendants or intervenors in this cause, pending in the United States Circuit Court for the Southern District of Illinois.

Here follows the extension decree of foreclosure, filed at Springfield, Illinois, September 3rd, 1877:

635 Circuit Court of the United States, Southern District of Illinois.

Order entered at Springfield, September 3d, 1877.

MALCOLM C. TURNER et al. *v.* THE INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY COMPANY and others.	Original Bill.
CHARLES W. SMITH and ROBERT TURNER *v.* THE INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY COMPANY and others.	Cross Bill.

This cause coming on to be heard on the said cross-bill of Charles W. Smith and Robert Turner, and the answers thereto by the several

parties defendant thereto and the replications of said cross-complainants, together with the exhibits, evidence, depositions, the report of the master, and the stipulations on file, and the court being sufficiently advised in the premises do find that the material allegations of said cross-bill are true, and upon consideration thereof it is ordered, adjudged, and decreed as follows:

First. That the said Indianapolis, Bloomington and Western Railway Company did, as by law authorized, sign, seal, acknowl-
636 edge, and deliver on June 28, 1872, its certain trust mortgage to William Dennison and Robert Turner, as trustees, conveying unto them the railway of the said corporation known as the Western Extension of the said Indianapolis, Bloomington and Western Railway, and described as follows, to wit: Commencing at the city of Champaign, in the county of Champaign, Illinois; thence running to the town of White Heath, in the county of Piatt; thence by way of Clinton, in the county of De Witt; Lincoln, in the county of Logan; Mason City and Havana, in the county of Mason, westwardly to the Mississippi River, and from the town of White Heath, by way of Monticello, in the county of Piatt, to the city of Decatur, in the county of Macon, all in the State of Illinois, altogether being in length about two hundred and fifteen miles, together with all its franchises, equipments, property, lands, tenements, fixtures, buildings, machinery, goods, and chattels of every description, kind, and nature used in or connected with the operation of said line of railway, including all rents, reservations, and reversions of every nature and kind whatever, including all the property between said terminal points which the said railway company then had, owned, or possessed, or might thereafter own, acquire, or possess.

And the court doth further find that the said conveyance
637 was presently after its execution and delivery duly recorded according to law in each of the counties through which the said line of road runs, and that since the date thereof the said Dennison has resigned his said trust, and Charles W. Smith has been duly appointed his successor in said trust.

And the court doth further adjudge and decree that by the execution, acknowledgment and record of said trust mortgage in the manner set forth in the said cross-bill, the same became and has ever since continued to be a valid first lien upon all and singular the property, appurtenances and franchises therein mentioned for the security and protection of the several holders of the bonds described in the said trust, mortgaged and intended to be secured thereby.

Second. And the court doth further decree that the said five thousand five hundred bonds described in the said trust mortgage were all duly negotiated for value before the institution of this action, and that the aggregate amount thereof, to wit, five million five hundred thousand dollars (principal and interest payable in gold coin of the United States), together with the unpaid installments of interest, constitutes a valid subsisting liability of said Indianapolis, Bloomington and Western Railway Company, and that the

holders of such bonds and coupons are entitled to share
638 *pro rata* in the lien and benefit of such common security, and that the same ought to be applied for the payment of their several demands.

Third. It is further found and decreed by the court that no interest has been paid on any of said five million five hundred thousand dollars of extension bonds since the first day of July, 1874, and that there is now due and payable to the several owners and holders of the said bonds and coupons the sum of six million nine hundred and eleven thousand six hundred and sixty-six dollars and sixty-six cents, payable in the gold coin of the United States. And the court doth therefore adjudge and decree that the said Charles W. Smith and Robert Turner, for the use of the several holders of the bonds and coupons aforesaid and commonly known as "extension bonds" of the said Indianapolis, Bloomington and Western Railway Company, do have and recover of the said Indianapolis, Bloomington and Western Railway Company the said sum of six million nine hundred and eleven thousand six hundred and sixty-six dollars and sixty-six cents, payable in the gold coin of the United States, which said sum the said corporation is ordered to pay, together with costs, into the office of the clerk of this court in discharge of this said decree within ten days from this date.

Fourth. And in default of such payment into court it is
639 ordered and decreed that the equity of redemption of the said Indianapolis, Bloomington and Western Railway Company and the other defendants to said cross-bill, and all and every person claiming by, through or under it or them, shall be forever barred and foreclosed as to said mortgaged property or any part thereof, and all and singular the said property described in said mortgage and embraced in this decree, viz: "The line of railroad commonly known as the Western Division of said Indianapolis, Bloomington and Western Railway, beginning at Champaign, in the county of Champaign, Illinois, and running thence westwardly through Havana, Mason county, Illinois, to the Mississippi River, together with a branch from White Heath by of Monticello to Decatur, Macon county, Illinois, being about 131 miles of completed railroad and about 5 miles of partially constructed line, together with all its franchises, property, lands, tenements, fixtures, building, machinery, goods and chattels of every description, between said terminal points and used in operating said described line of railroad, including the following equipment and rolling stock:

Six (6) locomotives, Nos. 11, 31, 32, 33, 40, 41.

Four (4) passenger coaches, Nos. 9, 11, 15, 21.

Three (3) baggage, mail and express cars, Nos. 3, 4, 8.

Twenty-nine box cars, Nos. 2003, 2004, 2005, 2006, 2007,
640 2008, 2009, 2010, 2011, 2012, 2013, 2014, 734, 736, 738, 740, 744, 746, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770.

Two (2) caboose cars, Nos. 11, 12.

Two (2) pilot caboose cars, Nos. 24, 25.
Nine (9) hand cars, Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, "Ex."
Nine (9) rubble cars, Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, "Ex."
One (1) boarding car, No. 6.
Twenty-two (22) coal cars, Nos. 301, 305, 307, 309, 311, 341, 315, 319, 321, 323, 325, 327, 329, 331, 333, 335, 339, 341, 343, 345, 347, 349.
Fourteen (14) stock cars, Nos. 402, 404, 406, 408, 410, 412, 414, 418, 420, 422, 424, 430, 432, 434.
Twelve (12) flat cars, Nos. 83, 91, 97, 99, 101, 103, 963, 847, 383, 385, 387, 389.

Together with all the supplies or material acquired by the receiver for the operation of said portion of railroad known as the extension, as per stipulation, shall be sold as an entirety at public auction to the highest and best bidder, by John A. Jones, master in chancery of this court, without any right of redemption therefrom.

Such sale shall be made at the door of the court-room of
641 this court, at Springfield, Illinois, at such time and hour as the said master shall appoint, and he is directed and required to give notice of the time, place, and terms of such sale and of the property to be then sold, by advertisement in one newspaper of general circulation published in the city of Springfield, Illinois, and one newspaper of general circulation published in the city of Indianapolis, Indiana, and one newspaper of general circulation published in the city of New York, such advertisements to be made sixty days before the day appointed for said sale.

Fifth. The said master shall require of each and every bidder at said sale, before recognizing or crying any such bid, a deposit of twelve thousand five hundred dollars, which sum shall be forfeited absolutely to the complainants for the use of their trust if the bidder to whom the property is struck off shall fail to complete the purchase in accordance with the decree and order of this court.

Such sale shall be subject to judgments and claims for rights of way and to all legal liens for taxes due and unpaid on the portion of railroad herein directed to be sold, with the right reserved to the purchasers to contest the legality or lien of any taxes against the said property, and such sale shall also be subject to the lien and
642 payment of all receiver's certificates issued and outstanding and decreed to be a separate paramount charge upon said extension at the date of sale under this decree, but such sale shall not be confirmed by the court until provision shall be made satisfactory to the court as to the payment or security to the parties holding the same of all such receiver's certificates.

The master shall require of the approved highest bidder at such sale the sum of twelve thousand five hundred dollars in cash, in addition to the deposit in his hands, out of which sums shall be paid the costs of this action, so far as taxable against said portion of railroad, and the expenses and commissions on such sale, and the fees and allowances herein provided for, which sums the said master is di-

rected to pay to the several persons entitled, or their solicitors, and take proper receipts therefor. After confirmation of such sale, and within six months from the day of sale, as much of the remainder of the said purchase-money due on said bid shall be paid in cash to said master as shall be necessary to pay such portion of the receiver's indebtedness or preferred claims for labor and supplies as the court may decree is justly to be apportioned to the said extension
643 line of railroad herein described, and which is not provided for by the issue and acceptance of receiver's certificates as stated in a previous clause in this decree, and the purchasers shall, in addition, pay any such sum as may be required by the court by an order to be entered of record.

But the right is hereby reserved to said cross-complainants, Smith and Turner, to appeal unto the Supreme Court of the United States from any and all orders and decrees, allowing, directing the payment of, or apportioning any of such labor or supply claims as a lien paramount to such extension mortgage.

Except the payments aforesaid and any *pro rata* share due on unsurrendered bonds which are required to be made in cash, the said master is authorized to receive in discharge of the said bid, the surrender to him of the bonds and coupons under the said mortgage of June 28th, 1872, and commonly known as Indianapolis, Bloomington and Western Railway Company extension bonds, at the proportion which each surrendered bond or coupon would be authorized to receive as its distributive share of the proceeds of sale.

Sixth. The master shall promptly make report of the said sale, and on confirmation thereof by the court and full payment of the purchase-money as herein required, the master shall make,
644 execute, acknowledge, and deliver unto the said purchaser or purchasers of said premises, a good and sufficient conveyance which shall vest in him or them, and his or their heirs and assigns forever, all and singular the title in fee-simple absolute of all the property and franchises herein ordered to be sold, forever free and clear of all equity of redemption of the said Indianapolis, Bloomington and Western Railway Company, and all and every one claiming by, under or through it, unto the said mortgaged premises and franchises, or any part thereof. Said conveyance shall recite that the title thereby acquired is in all things subject to the amount of such receiver's certificates as a first lien which the purchaser and grantee therein assumes and promises to pay as a part of the conditions and terms of purchase.

And on the production of such master's conveyance the said Indianapolis, Bloomington and Western Railway Company and the receiver of this court, and all and every of their agents, or any person or corporation having in his or their possession any of the property described in said master's deed, to forthwith deliver the same unto the said purchasers or their agent, who shall thenceforth hold, possess, use and enjoy the same as fully in every respect as the

said Indianapolis, Bloomington and Western Railway Company had authority to do.

Seventh. Out of the proceeds of sale the master shall pay
645 after retaining expenses of sale and such fees for his services as the court shall award, or the complainants shall agree, in the following order:

1st. Such portion of the costs of this action as are taxable in the cross-cause and against the fund thereof.

2nd. To the complainants for services as trustees three thousand dollars and the further sum of fifteen thousand dollars for counsel and solicitor's fees, to be distributed as follows: Seven thousand and five hundred dollars to Henry Crawford, solicitor, and seven thousand five hundred dollars to McDonald and Butler, solicitors.

3rd. Such portion of the claims legally due from or by the receiver as have arisen in the operation of said extension line of railroad and as the court may hereafter decree are properly and legally chargeable against it, and which are not evidenced by receiver's certificates as aforesaid.

4th. Such portion of the claims for labor and supplies due and owing by the said Indianapolis, Bloomington and Western Railway Company as shall hereafter be adjudged to be valid and paramount claims upon the said extension line of railroad, in preference to the lien of said trust mortgage of June 28, 1872, and which are not evidenced by receiver's certificates as aforesaid.

646 5th. The remainder to be distributed *pro rata* among the holders of the 5,500 bonds and coupons and certificates of indebtedness of the issue commonly known as "Indianapolis, Bloomington and Western Railway Company Extension Bonds."

And any of the parties interested may apply to the court for further directions at the foot of this decree as may be necessary to carry it into effect and finally adjust all the equities of the parties.

647 And afterwards, to wit, at the May term of said court, on the 18th day of September, 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

"The following order was this day received from the Honorable Thomas Drummond, judge:"

The order heretofore made in this cause of 18th July, 1877, submitting to John D. and Livingston Howland, Esqrs., as special masters, certain matters in which to take proof and report, is, on affidavit filed, hereby modified as follows, viz: that is to say, said Farmers' Loan and Trust Company shall have until the 1st day of October, 1877, to present proofs in opposition to the allowance of any claim presented to said masters or to the court for allowance, or any of them shall be allowed until the 10th October, 1877, to present rebutting testimony.

Due notice shall be given to the parties interested of the taking of the testimony.

648 And afterwards, to wit, at the November term of said court, on the 7th day of November, 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Come the masters and file their report with the accompanying evidence, which report is in the words following, to wit:

In the Circuit Court of the United States for the District of Indiana.

MALCOLM C. TURNER et al.
vs.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY. } Bill in Equity.

Cross-bill of
FARMERS' LOAN AND TRUST COMPANY.
Cross-bill of
ROBERT TURNER, CHARLES W. SMITH, Trustees.

Intervening Petition of the Western Car Company.

To the Honorable Court:

The undersigned, special masters, to whom the above entitled matter was referred, respectfully submit the following report:

The order of reference, so far as it bears upon this subject of the reference, reads as follows: "In the matter of the intervening petition and answer of the Western Car Company, said special masters are to ascertain and report the evidence and their findings thereon, relative to the reasonable and fair rental value of
649 the cars belonging to the said Western Car Company and in the use and possession of the Indianapolis, Bloomington and Western Railway Company, for the six months next previous to the 1st day of December, A. D. 1874; and also to report whether or not it was necessary and for the interest of I. B. & W. Ry. Co. to hire and use the same in whole or in part."

I.

As to the first branch of the reference, the evidence shows that the railway company had in its use and possession cars belonging to the Western Car Company during the six months designated by the order to the number of eleven hundred and seventy-two (1172.)

The petitioner and the respondent have rested their cases respectively on entirely different theories as to the right and just mode of ascertaining and estimating "the reasonable and fair rental value" which the masters are enjoined to make. Each party has obtained and presented evidence before us directed to the theory of computation insisted on by him, and no other.

The petitioner insists that the estimate should be based wholly

upon the testimony of experienced witnesses as to the *current monthly rental* for cars during the period named, in cases where cars are leased as these were, by the owner to the company. On the other hand, the respondent insists that *mileage* made by the petitioner's cars over the respondent's road and connecting lines, while in the possession and use of the railway, estimated at the established and ruling rates, as shown by the usage between connecting and through lines of road, should govern in determining the fair rental of the cars, and they have directed the evidence wholly to the questions what mileage actually was made by the cars, and what was the prevailing custom among roads of adjusting mileage between connecting lines whose cars ran over both with through traffic.

650 After full argument and consideration the masters feel constrained to wholly reject the basis of computation submitted by the respondent.

First. Because it is not a fair and reasonable mode of determining the rental value, in their judgment.

Second. Because it seems practically impossible to obtain the exact, and hardly the proximate, actual mileage of the cars when off the line of respondent's road.

Third. The evidence adduced under the theory cannot avail to make a computation in accordance with it, for the reason that it does not cover the case, there being no evidence at all on the point as to what mileage the cars of the petitioner, leased to the respondent and placed in the "White Line" actually made, when on the line of the respondent's road.

This leaves no other basis of computation possible under the evidence than that proposed by the petitioner, viz: the current monthly rental of cars so leased or rented, as shown by the testimony of men acquainted with the subject.

Adopting this mode of computation, the preponderance of the evidence is clearly that a reasonable and fair rental would be at the rate of fifteen dollars ($15) per month for each car belonging to the petitioner during the six months named.

We therefore find the reasonable and fair rental of the cars during the six months to be in the aggregate the sum of one hundred and five thousand four hundred and eighty dollars (105,480), which is allowed without interest.

II.

651 On the second branch of the reference, the masters are of the opinion that, situated as the road was during the six months, the amount of business and its distribution over the period, and the whole evidence on this subject, a reasonably fair exercise of business discretion in the management, in the then situation of affairs, justified the equipment the road retained.

And in this sense we find that it was necessary and for the interest of the road to have it.

All of which is respectfully submitted.

J. D. HOWLAND,
LIVINGSTON HOWLAND,
Special Masters.

The evidence produced before the masters appears in the following memorandum:

Schedule of Evidence.

Petitioners'. A package of depositions filed 5 May, 1875, and Exhibits thereto attached, marked by Comm'rs "A."
A package of depositions of
C. W. Smith,
A. H. Wood,
J. E. Gimperling,
marked "B."

Defendants'. Deposition of Jas. F. Secor marked "C."
Testimony of W. H. Cruger, E. P. Miller,
E. B. McClure, C. Kelsey,
Contained in bound volume marked "D," and Exhibit with Miller's testimony to show mileage, marked "E."

651A And afterwards, to wit, at the November term of said court, on the 8th day of November, 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the master and files his report upon the intervening petition of F. A. W. Davis herein, in the words following, to wit:

The Intervening Petition of F. A. W. Davis and Others.

To the Honorable Court:

The undersigned, to whom was referred the above entitled petition, respectfully reports as follows:

This claim is one of the labor and supply claims for the six months preceding the receivership, but was made a separate subject of reference by the 6th paragraph of the order of reference, and, being of considerable magnitude, one report upon separately.

The evidence shows the petitioners to be the owners by purchase and the present holders of paymaster certificates to the amount of twenty-four thousand and eight dollars and eighty-four cents, ($24,008.84,) for which they paid in cash $19,742.12. Upon these
651B certificates they have already received one payment, amounting to the sum of $2,400.65.

Of this total sum of $24,008, the aggregate of all the certificates, the sum of $2,480.98 is for labor claims back of the six months,

Leaving a balance of	$21,527.86
Upon which has been paid	2,152.55
Unpaid bal. in time	$19,375.31
Upon the amount back of the six months, to wit	$2,480.98
There has been paid	248.10
Unpaid back of six months	$2,232.88

Of this amount $2,037.17 was for claims for May labor, upon which ten per cent. has been paid, as above shown.

As to this month's claims it is agreed by the parties that by the universal custom of railway companies it did not become due and payable till the month following, that is, June.

The evidence further shows that the certificates were purchased by petitioners at the special request of Gen. Wright, the receiver, with the statement that they would be paid, and that the purchase would assist him in his duties.

651c As, however, the order of reference strictly limits the masters to claims for services rendered within six months, we have reported for allowance only the certificates for labor done within the six months, less the ten per cent paid, to wit, the sum of $19,375.31, which we find to be the sum due the petitioner under the order of the court.

We also report the amount paid for the whole original claim by the petitioners when they purchased, to wit, $19,742.12, it being insisted by the respondents that no allowance should be made parties who have purchased claims beyond the amount actually paid out by them for the same.

Should the court allow interest on the amount reported for allowance, it should be computed from the 30th day of November, 1874.

Respectfully submitted,

J. D. HOWLAND,
LIVINGSTON HOWLAND,
Special Masters.

652 And on the 15th day of October, 1881, the following agreement was filed by the parties herein in regard to the claim of Second National Bank of Peoria:

Intervening Petition of Second National Bank of Peoria.

The original petition and the endorsed agreed statement of facts thereon having been lost from the files, for the purpose of supplying the place of said claim and statement, it is agreed that the said claim was filed for the sum of $20,000, alleged to have been loaned to the defendant Railway Co. after June 1, 1874, for use in paying current,

operating and supply expenses accrued after June 1st, 1874. It is also agreed that the agreed statement of facts showed that the said sum of $20,000 so loaned by claimant and borrowed by said Railway Co., was loaned under an agreement that it should be used for the payment of operating expenses and supply claims accrued after July 1st, 1874, and that of said sum the sum of $12,000 was actually used by said railway company for paying operating expenses and supply claims accrued after June 1st, 1874. And this agreement shall take the place of said claim and agreed statement of facts, having been ordered filed by the court this 15th day of October, 1881.

SECOND NATIONAL BANK OF PEORIA,
By McDONALD & BUTLER, *its Solicitors.*
Respondents,
By J. D. CAMPBELL & C. W. FAIRBANKS, *Solicitors.*

653 Here follows the intervening petition of Christian Waterman, filed with the masters in said cause:

To the Honorable Judge of said Court:

The petition of Christian Waterman, of Indianapolis, Ind., represents and shows that the said Indianapolis, Bloomington and Western Railway Company is indebted to your petitioner in the sum of five thousand three hundred and twenty-two dollars and cents, with interest from Nov., 1874, which is now due and unpaid for and on account of labor done for said railway company State of Indiana, and in county of , State of Illinois, during July, August, September, October and November, 1874, and all done and furnished before the commencement of the receivership in the above cause. A more particular statement of said claim is as follows: Said work was done in operating the road of said company and by the persons and as shown by the paymaster's certificates hereto attached as a part hereof. The petitioner is and was a dealer in groceries and provisions, and took said certificates from the
654 first holders thereof at their par value, in payment for groceries and provisions sold at the usual price of sales for cash or on short credit for cash, and petitioner took said claims believing that they were good and would be paid. He made demand of payment of the receiver immediately after his appointment and frequent demands since. This petition is filed for the purpose of complying with the requirements of the order referring such claims to the master of this court, and the petitioner asks that this be taken as additional and amendatory of his petition heretofore filed in connection with F. A. W. Davis and others, which last mentioned petition the petitioner says is true, as the petitioner is informed and believes, and reference is made thereto.

Your petitioner prays that the court order and direct the payment of said claim by the receiver having charge of said railway, or that the court direct and require the payment to be made from the

proceeds of the sale of said railway, and the petitioner prays for all proper relief, etc.

[Folios 655 to 669, both inclusive, were erased in original copy.]

670 It is agreed that the foregoing petition was properly filed and verified, and the exhibits therein referred to are omitted from the record without prejudice to either party.

671 Here follows the intervening petition of A. Snedaker, filed with the masters in said cause:

Your petitioner, Abram Snedaker, of Champaign county, Illinois, by way of amendment to his petition heretofore filed, herein respectfully represents unto this honorable court, that the Indianapolis, Bloomington and Western Railway Company is justly indebted to your petitioner for supplies furnished by him to said Indianapolis, Bloomington and Western Railway Company; that the said supplies were furnished between the first day of June, 1874, and the date of the order appointing a receiver in this cause; that there is now due your petitioner for such supplies the sum of seven thousand and ninety-two and 65-100 dollars after allowing all just credits, deductions and set-offs; that the same remains due and unpaid, and the same accrued in the county of Champaign and State of Illinois; petitioner hereto attaches an itemized account of said supplies, marked Exhibit "A," and makes the same a part of this petition; that
672 the items in said Exhibit "A," dated in the month of May, 1874, and none of them are included in the above amount of $7,092 65-100 stated to be due your petitioner as aforesaid, and your petitioner prays that the amount now due him may be ordered to be paid under the direction of this honorable court by the receiver now in charge of said railway, or from the proceeds of the sale thereof, and for which he will ever pray.

AB'M SNEDAKER.

STATE OF ILLINOIS, }
Champaign County. }

I, Abram Snedaker, being duly sworn, do depose and say that the above petition is true in substance and in fact, and that there is now due to your petitioner the sum of seven thousand ninety-two and 65-100 dollars, and the same remains due and unpaid; further the affiant saith not.

AB'M SNEDAKER.

Subscribed and sworn to before me this 6 day of August, A. D. 1877.

FRANCIS W. WRIGHT,
[SEAL.] *Notary Public.*

[By agreement it is hereby stipulated that the items of Snedaker's

account and notes issued to him are omitted from the record; the agreed statement of facts being substituted for said account.]

[Folios 673 to 706, both inclusive, were erased in original copy.]

707 *Agreed Statement of Facts.*

In the matter of the intervening petition of Abraham Snedaker filed in this cause and referred to John D. and Livingston Howland, masters, to take proof and report, it is hereby agreed by and between the said intervening petitioner and the parties to the above entitled cause as follows:

1. That said petitioner, Abram Snedaker, did, in the county of Champaign and State of Illinois, furnish supplies to said Indianapolis, Bloomington and Western Railway Company to the amount of ($8,159.81) eight thousand one hundred and fifty-nine and 81-100 dollars between the first day of June, A. D. 1874, and the date of the appointment of the receiver in said cause, and that there was due him for like supplies furnished said railway company prior to the first day of June, A. D. 1874, to the amount of ($2,087.37) two thousand eighty-seven and 37-100 dollars.

2. That the said railway company paid said Abram Snedaker in specific property and in cash as follows:

1874.	June	$419 03
	July	301 87
	August	202 57
	Sept. 30	425 20
	Oct. 31	191 08
708	Oct. 31	207 00
	Nov	376 05
	Nov	1031 75
	Total amt. paid	$3154 55

3. It is further agreed that this agreement of the facts in this matter shall be taken and considered as the testimony in this cause in the same manner and to the same extent as if taken by the master to whom the same was referred, and is to be used as such in all respects.

4. That said supplies consisted of castings used by said road in operating the same.

SOMERS & WRIGHT,
Sols. for Petitioner.
C. W. FAIRBANKS,
Sol. for Bondholders.

709 Here follows the intervening petition of Edward H. Mayo, filed with the masters in said cause:

To the Honorable Judges of said Court:

The petition of Edward H. Mayo represents and shows that the said Indianapolis, Bloomington and Western Railway Company is

indebted to your petitioner in the sum of thirteen thousand and six hundred dollars ($13,600) of principal, together with interest thereon from October, 1874. Of the said sum nine thousand four hundred and five dollars ($9,405) is evidenced by the notes of said company, of which notes copies are herewith filed and made a part hereof and the same will be produced on the hearing of this petition. The remainder of the aforesaid claim, to wit, the sum of $4,195.08, is in account stated, approved, and certified by the duly authorized officer and agent of said company, as shown by a copy of said statement hereto attached as a part hereof, marked Exhibit "A." Said notes and account have been assigned to the petitioner by said Mayo and Burgundthal, and the petitioner is now the sole owner of said
710 claim and he was the senior member of said firm of Mayo & Burgundthal, now dissolved.

The petitioner further says that said account is for supplies furnished by the said Mayo & Burgundthal to the said railway company during the months of August, September, October, and November, 1874. The consideration of each of the aforesaid notes was for supplies furnished said railway company. The supplies which entered into the consideration of that one of said notes which first became due were furnished April 2, 1874, $11.72; May 27, 1874, $546.11; May 30, 1874, $179.80; and all the remainder of the consideration of said note was furnished in June, July, and August. And the supplies which furnished the consideration of each of the other two of said notes was furnished prior to May, 1874. The petitioner says that all of the supplies furnished as above stated were furnished to be used and were used in operating the road of said company, and consisted of iron, steel, bolts, nails, and other articles, which were needed and required by said company in running and operating said road. The petitioner has furnished, and there is now on file in the office of the said railroad company, a particular statement of the supplies furnished as aforesaid. And the petitioner will produce and show on the hearing of this petition a further bill of particulars, if required. That part of the supplies furnished in May as above stated were not to be paid for until the first of June, and the
711 claim therefor was not due until the first of June, 1874.

The petitioner, since the appointment of the receiver in the above entitled cause and immediately thereafter, made demand of payment of the above claim of the receiver. And since made frequent other demands of payment and received repeated assurances that his claim would be paid. But his aforesaid claim, though long since due and payable, yet remains wholly unpaid. Your petitioner believes that he ought to have been paid at least $13,600.00, that being the principal of his claim. But being allowed only for supplies furnished since May 21, 1874, then the petitioner ought to be paid the whole of his above account of $4,195.08, and all the first of the above notes less $11.72, the amount furnished in April, making the whole amount $7,318.36 which petitioner ought to receive, together with interest. Your petitioner will prove his claim

as this court may direct. And he prays that this court order and direct the payment of his aforesaid claim by the present receiver having charge of said road, or that payment be made out of the proceeds of the sale of said road. And the petitioner prays for all other proper relief, and will ever pray, &c.

EDWARD H. MAYO.
CLAYPOOL, NEWCOMB & KETCHAM,
Solicitors.

[It is agreed that the foregoing petition was properly filed and certified; and the exhibits therein referred to are omitted from this record without prejudice to either party.]

[Folios 712 to 715, both inclusive, were erased in original copy.]

Here follows the intervening petition of H. C. Adams, as-
716 signee, filed with the masters in said cause:

Ex parte: Henry C. Adams, assignee in bankruptcy of the estate of Indp'l's Brass and Supply Company, claimant.

Petition.

To the Honorable Judges of the Circuit Court of the United States for the District of Indiana.

Henry C. Adams respectfully represents: That on or about the day of October, 1873, there was organized under the laws of the State of Indiana a certain manufacturing and trading corporation designated Indianapolis Brass and Supply Company, having its place of business at the city of Indianapolis, in the State and District of Indiana; that said corporation continued in existence and in the prosecution at said city of the business for which it was organized until on or about the day of , 187 , when it was declared and adjudged bankrupt under the laws of Congress in such case made and provided, in the District Court of the United States for the said district, and your petitioner was thereafter, to wit, on the day of , 187 , selected, appointed and qualified
717 the assignee of said bankrupt's estate in said proceeding, and still continues in the discharge of the duties of his trust as said assignee.

And your petitioner further says that, as he is informed and believes the truth to be, between the first day of July, 1874, and the 30th day of November, 1874, the Indianapolis, Bloomington and Western Railway Company became indebted to the said Indianapolis Brass and Supply Company in the sum of nine thousand five hundred and twenty-nine dollars and ninety-four cents for supplies furnished to said railway company by said brass and supply company; that in consideration of said supplies so as aforesaid furnished said railway company, and as part payment therefor, the said railway company did transfer and make over to said brass and supply company certain

property of the value as agreed upon between said companies in the aggregate of thirty-one hundred and three dollars and thirty-one cents, and did execute its note to said brass and supply company in the further sum of fifteen hundred dollars, leaving unsettled and due to said brass and supply company on account of said supplies so furnished the sum of forty-nine hundred and twenty-six dollars and sixty-three cents ($4,926.63); that the said promissory note
718 has been in no part paid and still remains the property of the estate of said bankrupt corporation; that a copy of the statement of account between said corporations for said period as made out and audited by the auditor of said railway company, and a copy of the said promissory note, are filed herewith, and marked Exhibits A and B, respectively; wherefore by reason of the premises the petitioner says that the said railway corporation is indebted to the estate of said brass and supply company in the sum of sixiy-four hundred and twenty-six dollars and sixty-three cents, with interest thereon from the 30th day of November, 1877, at the rate of six per centum per annum.

And the said petitioner further says that the estate of the said Indianapolis Brass and Supply Company is the holder and owner of a certain promissory note in writing (copy of which is filed herewith marked Exhibit C) given by the said Indianapolis, Bloomington and Western Railway Company dated Oct. 6, 1874, for the sum of seven hundred and fifty dollars, payable forty-five days after said date to the order of said Indianapolis Brass and Supply Company at the Indiana Banking Company in the city of Indianapolis, in said State and District of Indiana; that the consideration of said note was, as your petitioner is informed and believes the fact to be, supplies furnished by
719 said brass and supply company to said railway company. and that said note is wholly unpaid; wherefore there is due and owing said bankrupt's estate from said railway company the sum of seven hundred and fifty dollars ($750.00) with interest thereon at the rate of six per cent. per annum from the 20th day of November, 1874.

And your petitioner prays that the claims above set forth be allowed and that the receiver of the said Indianapolis, Bloomington and Western Railway Company be ordered to pay the same out of any money which may come to said receiver's hand, and for such other and further order in the premises as may be just and proper.

HENRY C. ADAMS,
Assignee, &c.

CHAPMAN & HAMMOND,
Solicitors for Petitioners.

UNITED STATES OF AMERICA, } ss.
District of Indiana, }

Henry C. Adams, being duly sworn, upon oath says that the matters and things set forth in the foregoing petition are true, except

so far as the same are stated upon information and belief, and as to such matters he believes them to be true.

HENRY C. ADAMS.

Subscribed and sworn to before me this —— day of August, 1877.

NATHAN MORRIS,
Notary Public.

720 *Exhibit A.*

Indianapolis Brass and Supply Co., in Miscellaneous Account with the Indianapolis, Bloomington and Western Railroad Company.

Dr.				Cr.			
Oct. 31.	To scrap, Aug., 1874	$73 80		Oct. 31.	By sups., July, 1874	$1,548 39	
	" " Sept. "	1,092 46			" " Aug. "	1,708 72	
	" " " "	1,249 90			" " " "	56 82	
	" " Oct. "	567 45			" " " "	12 32	
Nov. 30.	" Note.....	1,560 00			" " Sept. "	1,541 45	
	" Cr. Bill, Nov. "	119 70	4,603 31		" " " "	36 82	
					" " Oct. "	50 34	
	To balance.....		4,926 63		" " " "	2,208 70	
				Nov. 30.	" " Nov. "	156 84	
					" " " "	1,384 54	
					" Butsch, Dickson & Co.....	825 00	9,529 94
			9,529 94				9,529 94
				Dec. 1.	By balance.....		4,926 63

721 *Exhibit B.*

Indianapolis, Bloomington & Western R'y Co.

$1,500. INDIANAPOLIS, IND., Nov. 12, 1874.

Ninety days after date, for value received, the Indianapolis, Bloomington & Western Railway Co., by their president duly authorized, promise to pay to the order of Indianapolis Brass and Supply Co. fifteen hundred dollars at the company's office or Citizens' Nat. Bank, Indianapolis, Ind.

No. 0111. INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY CO.,
By C. F. SMITH, *President.*

Exhibit C.

Indianapolis, Bloomington & Western R'y Co.

$750. INDIANAPOLIS, IND., Oct. 6, 1874.

Forty five days after date, for value received, the Indianapolis, Bloomington & Western Railway Co., by their president duly authoriesd, promise to pay to the order of Indianapolis Brass and Supply Company seven hundred and fifty dollars at Indiana Banking Co., Indianapolis, Ind.

No. 078. INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY CO.,
By C. F. SMITH, *President.*

The amount due on the within claim within June 1 & Dec. 1, 1874, $9,529.94, of which amount there was paid the sum of $3,103.31 during the said six months and applied to said sum of $9,529.94, leaving due and unpaid to petitioner the sum of
722 $6,426.63.

C. W. FAIRBANKS.

723 Here follows the intervening petition of George Wooden, filed with the masters in said cause:

Your petitioner, George Wooden, respectfully represents unto this honorable court that the Indianapolis, Bloomington and Western Railway Company is justly indebted to your petitioner for cross-ties furnished by him to the Indianapolis, Bloomington and Western Railway Company, for which the annexed notes attached hereto were given andas shown by the books of the said railway company; that the said cross-ties were furnished by him between the first day of June, 1874, and the date of the order appointing a receiver in this cause; that there is now due your petitioner for such cross-ties the sum of six thousand four hundred thirty-four and 3-100 dollars, after allowing all just credits, deductions, and set-offs; that the same remains due and upaid, and the same accrued in the county of Fountain and State of Indiana; and your petitioner prays that the amount now due him may be ordered to be paid under the direction of this honorable court by the receiver now in charge of said railway, or from the proceeds of the sale thereof; and for which he will ever pray.

G. WOODEN.

724 STATE OF INDIANA, } ss.
Marion County, }

I, George Wooden, being duly sworn, do depose and say that the above petition is true in substance and in fact, and that there is now due to your petitioner the sum of six thousand four hundred thirty-four and 3-100 dollars and the same remains due and unpaid; further the affiant saith not. G. WOODEN.

Subscribed and sworn to before me this 21st day of August, A. D. 1877.

[SEAL.] W. S. WING, *Notary Public.*

Copy of Notes.

Indianapolis, Bloomington and Western R'y Co.

$2,000.00. INDIANAPOLIS, IND., Sept. 22, 1874.

Four months after date, for value received, the Indianapolis, Bloomington and Western Railway Co., by their president duly authorized, promise to pay to the order of Geo. Wooden, with interest at eight per cent., two thousand dollars at Citizens' National Bank, Indianapolis.

No. 065. INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY,
31 By B. E. SMITH, *President.*

Indianapolis, Bloomington and Western R'y Co.

$1500.00. INDIANAPOLIS, IND., Sept. 22, 1874.

Fourteen months after date, for value received, the Indianapolis, Bloomington and Western Railway Co., by their president duly authorized, promise to pay to the order of Geo. Wooden, with
725 interest at ten per cent., fifteen hundred dollars at Citizens' National Bank, Indianapolis, Ind.

No. 066. INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY,
By B. E. SMITH, *President.*

Indianapolis, Bloomington and Western R'y Co.

$2,000.00. INDIANAPOLIS, IND., Sept. 22, 1874.

Sixty days after date, for value received, the Indianapolis, Bloomington and Western Railway Co., by their president duly authorized, promise to pay to the order of Geo. Wooden two thousand dollars at Citizens' National Bank, Indianapolis, Ind.

No. 064. INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY,
By B. E. SMITH *President.*

And afterwards, to wit, at the November term of said court, on the 16th day of November, A. D. 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Now at this day come John D. Howland and Livingston Howland, special masters herein, and file their report herein upon certain claims referred to them, with the schedule marked "A" accompanying said report, which report and schedule are in the words following, to wit:

726 *Intervening Petitions of Various Claimants.*

To the Honorable Court:

The undersigned, joint special masters, to whom were referred the various intervening petitions of claimants against said railway for "labor, supplies, and operating expenses performed for and furnished to said" railway company "between the first day of June, A. D. 1874, and the date of the commencement of said receivership," respectfully submit to the honorable court the report, as follows:

They have received and considered thirteen hundred and seventy-one (1371) petitions or claims, and their action upon and disposition of each claim are indicated upon schedule accompanying this report, and which they make and ask to have accepted as a part of the same; indicated for reference as schedules "A," "B," "C," "D," "E."

Schedule A embraces the claims that have been examined and allowed in whole or in part upon evidence taken, or agreed statements, or by reference to the pay-rolls and books of the company. This

schedule comprises the great body of the claims presented to
727 the masters. It aggregates in amount $305,104.33.

Schedule B includes those claims only which were not in the hands of the original claimants, but which have been sold and assigned to the purchasers at an amount less than their face value. The claims in this schedule have been allowed to the claimants at their full face, but we have indicated under each the amount paid therefor by the holder, and should the court determine that *that* should be the means of the allowance, the schedule will show the amount paid. The aggregate of the claims in this list is $27,367.73.

Schedule C is of claims held as above in B, by assignees, but as to which no evidence was introduced as to how much was paid therefor. We have allowed these at their face. There are but six of them, and the amounts are small, aggregating $4,022.69.

Schedule D contains six claims for the value of stock killed in operating the road during the six months where the books of the company show a report and adjustment of the loss. We have allowed these claims but reported them separately, for the consideration of the court in passing upon the report. We deemed them as falling within the term operating expenses. They aggregate in
728 amount $281.50.

Schedule E is composed of claims which we have rejected or disallowed, some of them as not proven by the evidence, and others as not within the scope of the order of reference. Amt. $41,-936.80.

Schedule F is of claims for attorney's fees and salaries of president and vice-president during the six months. The amounts due are simply reported, the masters doubting if they come within the class of claims referred to them, neither allow nor disallow, but report amount. Aggregate $9,231.65.

Remarks on Specific Claims.

Claims No. 1368 and 1179 are claims of two national banks for money loaned to the company to operate the road.

We have allowed these claims only to the extent that the money is traced to the payment of such claims as falls within the order of reference, and which could themselves have been presented and allowed under the order. In the amount allowed on claim 1368, to the Citizens' National Bank at Indianapolis, we have included $1,-119.61 paid as rental to the Springfield and Peru R. R., which the respondents insist should not have been included, and we have excluded $1,306.52 accounted for as paid on "interest and dis-
729 count," which the petitioners insist should have been included.

In claims 1181-2-3, the several claimants held separate notes of the railway company, the consideration of which was a general account for supplies, part of which account fell back of the period of six months. We apportioned the amount falling within the time, among the three claimants in proportion to the amount of their

claims, having no evidence upon which to make any other apportionment.

We recommend that this division among the claimants of the full sum allowed on all their claims be regarded as simply provisional, and that they be permitted, if they so desire, to enter, plead and determine the proper adjustment among themselves.

In claims Nos. 252, 263 and 1245 the several claimants stand in the same relation to each other. Also in Nos. 316 and 719, and we recommend the same course as to these if the parties desire.

The names of claimants referred to in the last two paragraphs are as follows: C. F. Lucas, Lucas & Finch, and David Mayer, D. W. Cunningham, Hibben, Kennedy & Co., and Landis, Caldwell & Co., the Jefferson Furnace Company, and Rout & Benson.

In claim No. 955, Layman, Carey & Co., the account of the
730 claimant is for supplies, $550.42 of which fall back of the six months, but mostly for May supplies.

We have disallowed this part of the account, but the claimant insists that it should have been allowed, as the supplies were of a character that they went into the hands of the rec'r, and were used by him. We refer to the evidence accompanying the petition.

In claim 1369, Jesse M. Richards, claimant, there is included in the sum allowed the sum of $1,352.60 for freight drawsbacks under a contract with the company under which said drawbacks were contracted, to be paid in consideration of building an elevator on the line of the road. Only such are embraced in the allowance as were earned within the six months.

It is agreed in the claims of Edward H. Mayo, Indianapolis Rolling Mill Co., David Stout, John Gere, William B. Burford, and R. W. Porter, that according to the universal custom of railroad companies, the pay-rolls of each month are not payable until the 1st and 15th of the succeeding months. This was not the practice of the I., B. & W. R. Co.; but when it paid its labor and supply bills the practice was the same as the above.

Interest.

From recent intimations of the court we have deemed it
731 probable that no interest would be allowed upon these claims.

We have made no computation of interest, therefore, but should it be the order of the court that interest be allowed, we have indicated opposite each claim the date from which, in our judgment, it should be computed. The labor of computing interest up to the date of the report, which would not, of course, be final, would have been, we thought, useless for any purpose to the court. We return herewith the claim of the Barnum and Richardson Manufacturing Company, together with the report thereon of H. W. Bishop, master, to whom it was referred, and reported upon by him and then sent with his report to us. It would seem to require no action on our part. It is numbered 335 and entered on our report as part of schedule A.

We return herewith the following claims and petitions, filed with us after the 15th day of September, 1877, the date of limitation for filing claims, and which, therefore, we could not entertain and act upon:

1. George W. Hult's claim.
2. Richard Dent's "
3. S. Frankenfield's "
4. Peter F. Brice's "
5. Wm. H. Brower, adm'r, claim, for such disposition as the court may direct.

732 *Recapitulation.*

Allowed:	
Schedule A	$305,104 33
Schedule B	27,367 73
Schedule C	4,022 69
Schedule D	281 50
	$336,776 25
Disallowed:	
Schedule E	$41,936 80
Amounts reported to court	9,231 65
Schedule F. Barnum & Richardson, Reported by Bishop.	2,502 96

And the undersigned refer to the former reports heretofore filed by them as follows:

1. Allowing the Western Car Company's claim, filed November 7, 1877, for $105,480.00.

2. Allowing the claim of F. A. W. Davis and others, filed Nov. 8th, 1877, $19,375.31.

And with the exception of a claim for coal pending in favor of the Paris & Danville Railroad Company, upon the intervening petition, James A. Eads, its receiver, this report and those above referred to, dispose of all claims submitted to the undersigned, under the order of the court, allowing for labor, supplies, etc., furnished during the six months prior to the receivership.

Respectfully submitted,

J. D. HOWLAND.
LIVINGSTON HOWLAND.

Nov. 16, 1877.

733 *Schedule "A."—Master's Report on I., B. and W. Claims.*

	Claimants.	Amount.	When due.
1	Charles F. Webb	$270 00	30 Nov., '74
2	B. F. Dennison	174 15	do
3	Samuel Roach	175 20	do
4	Maxwell Plumly	180 00	do

		Claimants.	Amount.	When due.
	5	John Morain	$66 35	30 Nov. '74
	6	Michael O'Brien	33 75	do
	7	John Wasson	76 90	do
	8	John Lyons	143 45	do
	9	Edward Kernan	84 95	do
	10	W. L. Luggett	270 00	do
	11	Patrick Nevin	17 45	do
	12	Thomas Maloney	270 00	do
	13	Patrick Flaherty	16 20	do
	14	L. F. Alby	143 60	do
	15	Paul Finnan	19 15	do
	16	George Abbott	46 50	do
	17	Charles Neher	211 50	do
	18	J. A. Davis	319 50	do
	19	Patrick Hack	123 25	do
	20	Tim Donohue	128 80	do
	21	Dan'l Spellman	540 00	do
	22	Ned Butler	87 75	do
	23	L. F. Abbey	108 10	do
	24	John Doyle	28 10	do
	25	W. A. Atkins	238 50	do
	26	Michael Finnan	184 70	do
	27	Patrick Conroy	82 70	do
	28	Michael Curly	11 40	do
	29	J. M. Stearns	15 95	do
	30	Luke Nevin	95 00	do
	31	Thomas Starr	74 95	do
734	32	David Stephenson	90 50	do
	33	Michael Colton	364 25	do
	34	E. L. Pettibone	144 45	do
	35	Pat. Hines	288 65	do
	36	N. J. Humphrey & Son	207 60	do
	37	Brindley & Stout	227 35	do
	38	Michael Gee	14 60	do
	39	J. Keenan	12 15	do
	40	John Michael	200 00	do
	41	Charles Irons	59 45	do
	42	John Mickers, bal. claimed in 1873	25 75	do
	43	McLean Co. Coal Company	670 22	do
	44	Dave Donahue	52 50	do
	45	James Houghton	150 75	do
	51	M. Keigher	124 65	do
	52	Martin Stocky	262 10	do
	53	John Brake	227 00	do
	54	John Mullen	132 45	do
	55	E. Lendormie	147 50	do
	56	Pat. Corbett	31 70	do

		Claimants.	Amount.	When due.
	57	Michael Nolan	184 95	30 Nov., '74
	57	Lathrop Kazon	112 50	do
	58	D. C. Cormack	44 45	do
	59	Alonzo Kazan	54 00	do
	60	R. J. Weed	211 10	do
	61	A. H. Wood	50 00	do
	62	Hugh Martin	217 85	do
	63	Duncan McLeman	302 40	do
735	67	Thomas Marion	121 50	do
	68	Alex. McLeman	59 35	do
	69	Peter O'Neil	87 58	do
	70	C. T. Richey	118 00	do
	71	Albert Ponter	280 40	do
	72	John Quirk	123 00	do
	73	Daniel Schooley	187 45	do
	74	Alex. Thompson	433 55	do
	75	J. V. Trenany	64 91	do
	76	Aug. Alrich	291 60	do
	77	Michael Bougart	166 93	do
	78	John Connerty	224 00	do
	79	Edward Clancy	142 40	do
	80	Fred. Clayton	131 60	do
	81	E. K. Clayton	374 15	do
	82	James Connerty	241 10	do
	83	William Carniert	238 50	do
	84	J. Caldwell	308 25	do
	85	James Caddy	129 45	do
	86	Dennis Donahue	90 20	do
	87	Frederick Davis	161 80	do
	88	A. Graham	103 05	do
	89	Howard Golden	359 85	do
	90	Thomas B. Hinkle	189 45	do
	91	J. P. Gorsett	193 70	do
	92	Pat. Fitzgerald	17 60	do
	93	L. McLaughlin	40 50	do
	94	Herman Gerbing	125 95	do
	95	G. P. Gaston	168 96	do
	96	Sarah S. Hulcap	211 48	do
736	97	Barney Lynch	225 40	do
	98	G. Casper Little	330 20	do
	99	James McGrath	183 45	do
	100	William Kerfoot	231 00	do
	101	C. F. Koesel	336 65	do
	102	Herman Damon	90 70	do
	103	Michael Hughs	131 20	do
	104	E. Heiserodt	422 30	do
	105	John McDermott	132 65	do
	106	John McDermott	126 60	do

		Claimants.	Amount.	When due.
	107	David H. Price	163 60	30 Nov., '74
	108	R. D. Perry	104 10	do
	109	C. F. Ritchy	73 74	do
	110	Con Ryan	236 35	do
	111	Edwin Sypes	270 00	do
	112	Stephen Smith	266 20	do
	113	David Sidell	93 95	do
	114	George B. Johnson	110 15	do
	115	George Thompson	322 55	do
	116	Charles E. Losee	366 05	do
	117	John Washer	142 60	do
	118	E. M. Jordan	118 30	do
	119	Jo. Walker	192 55	do
	120	Henry Weinke	120 60	do
	121	Fred Weinke	260 70	do
	122	R. E. Trenary	51 20	do
	123	Lewis Templeton	262 95	do
	124	John Tong	57 05	do
	125	James Thorp	214 55	do
	126	Z. F. Sharpe	339 05	do
737	127	John Shannon	339 80	do
	128	S. S. Small	275 75	do
	129	Henry Riley	144 60	do
	130	M. F. Meagher	269 40	do
	131	James Matherson	257 70	do
	132	Chris Mallendorf	156 40	do
	133	John Medrow	225 15	do
	134	John B. Burns	277 45	do
	135	Melville Birney	44 90	do
	136	Fred Washer	134 50	do
	137	W. A. Billings	40 50	do
	138	Matt Cole	9 90	do
	139	N. Cunningham	62 80	do
	140	James Duncan	31 90	do
	141	Chas. Dunlap	31 60	do
	142	James Cowley	200 05	do
	143	John S. Creek	65 45	do
	144	Pat Bantley	460 65	do
	145	John Bellchambers	235 60	do
	146	W. C. Brant	289 25	do
	147	Charles Bellfield	176 50	do
	149	S. C. Briggs	208 85	do
	150	M. Bebus	97 30	do
	151	S. M. Harvey	112 65	do
	152	M. K. Frazer	50 75	do
	153	Edward F. Gordon	253 80	do
	154	Thos. V. Losee	648 75	do
	155	Jno. Weinke	217 55	do

		Claimants.	Amount.	When due.
	156	H. M. Call	45 00	30 Nov., '74
	157	Thomas Redding	382 30	do
	158	J. P. Blue	21 50	do
738	159	Patrick McGrath	109 10	do
	160	John R. Timpson	99 55	do
	161	Patrick Fitzgerald	88 70	do
	162	John Reynolds	27 90	do
	163	Edward Henry	164 00	do
	164	Z. E. Gill	42 90	do
	165	J. T. Rittenhouse	69 75	do
	166	Jesse Burt	16 75	do
	167	A. H. Wood	1080 00	do
	168	Thomas W. McHugh	540 00	do
	169	Abe Epstein	181 35	do
	170	E. Halberstadt	45 00	do
	171	Pat Fitzgerald	54 82	do
	172	Michael Doyle	10 75	do
	173	John Cain	1023 55	do
	174	James Braddock	10 00	do
	175	Charles G. Yohn	180 25	do
	176	B. Hutchinson	292 80	do
	177	C. O. Pease	286 64	do
	178	W. E. Rowe	300 05	do
	179	Daniel Higgins	76 50	do
	180	S. K. Davis	52 90	do
	181	John Bedill	52 75	do
	182	Peter Jacoby	81 95	do
	183	Caleb D. Bellworth	174 55	do
	184	Daniel Doyle (see No. 658).	156 40	do
	185	Pat Manley	520 00	do
	186	Johnson & Stout	116 57	do
	187	John S. Duncan	45 00	do
739	190	Neil Dugan	7 45	do
	191	John Lev	211 03	do
	196	Christian Waterman	5302 17	do
	197	Vincent Miller	40 50	do
	198	M. W. Loder	337 65	do
	199	Mike Griffin	335 35	do
	200	Leverin, Ostermeyer & Co.	144 00	do
	201	David Frey	123 57	do
	202	David A. Stout	748 09	do
	204	E. M. Wheeler	140 45	do
	205	George Frindman	107 15	do
	207	Patrick O'Keefe	22 50	do
	208	Dennis Monk	117 20	do
	209	Elizabeth Heigle	427 31	do
	210	John A. Worley	15 75	do
	211	Tobias Hill	23 65	do

	Claimants.	Amount.	When due.
212	A. Pophias & Bro	39 60	Nov. 30, '74
213	John Puble	5 50	do
214	Sam'l Tarflinger	114 00	do
215	G. K. Thompson	360 00	do
216	Peter C. McMahan	379 32	do
217	Christian Port	139 60	do
218	Jas. M. Duncan, Jos. G. Hardy	164 65	do
219	Geo. K. McComas	163 00	do
220	M. W. Jones	462 81	do
221	Walker Bros	81 00	do
222	Lewis L. Fellows	135 00	do
223	D. Hession	168 90	do
224	John Toolies	52 10	do
226	Johnston Bros	414 80	do
229	L. M. Russell estate, James S. Russell, adm'r	339 50	do
740			
230	John Reed	306 55	do
231	Joseph E. Ludlum	225 00	do
232	Leopold and Julius Loeb	267 54	do
235	Michael Mayer	136 20	do
236	John McManomy	306 50	do
237	Joseph Catherwood	52 85	do
238	Hildebrand & Fugate	500 00	Oct. 26, '74
239	George W. Snyder	262 55	Nov. 30, '74
240	Wm. M. Davis	91 53	do
242	I. S. Williams	119 70	do
243	M. W. Reums	322 65	do
244	Woodruff & Detweiler	115 60	do
245	M. M. Buck & Co	760 56	do
246	W. Maltby	78 00	do
248	Shaw Carriage Co	222 05	do
249	Hess & Hanna	95 20	do
250	Lydia Leeds	4 65	do
251	Luckett & Rennick	253 75	do
255	William A. Perry	200 80	do
256	M. Ready	225 00	do
257	H. Conkling	247 30	do
258	W. H. Straight (W. W. Straight)	320 20	do
259	Meyerhausman & Denkman	340 08	do
267	Edward H. Mayo (assigned 2d National Bank, Lafayette)	7057 71	Oct. 22, '74
269	David Berkly	54 00	Nov. 30, '74
272	Marcus E. Frazer	45 80	do
273	James Fisher	69 75	do

		Claimants.	Amount.	When due.
	274	Cassell & Furnas	22 40	Nov. 30, '74
741	275	Thomas Cassidy	95 15	do
	276	William T. Smith, (see No. 884 duplicate)	315 00	do
	277	Seth R. Evans	258 38	do
	278	David Case	159 35	do
	279	J. W. Haynes	90 00	do
	280	Peter Sullivan	219 60	do
	282	Robertson & Perry	161 75	do
	283	Charles J. Smidt	475 05	do
	284	Robt. Popkiss	672 60	do
	285	Wilkinson Crain	57 20	do
	286	H. A. Mulholland	71 80	do
	287	W. S. Barclay	270 00	do
	288	Matthew Fawcett	479 38	do
	290	Sacob Bush	80 65	do
	292	J. O. D. Lilly	177 00	do
	293	J. B. Alexander	99 80	do
	294	J. M. Lemon	325 95	do
	295	H. P. Seymour	56 57	do
	296	Abel R. Angel	288 00	do
	297	J. D. Swan	319 70	do
	298	M. A. Stowell	266 60	do
	299	William Braden	31 50	do
	300	Monroe Mills	42 00	do
	301	F. C. Bigelow	108 00	do
	303	Fred. Baggs	27 00	do
	306	F. Turman & Bro	31 75	do
	307	Mary Welch, adm'rx	139 50	do
	308	Hildebrand & Fugate	93 00	do
	309	Jacob Mogley	101 10	do
	310	Henry Gorham	89 05	do
742	311	C. M. Burkert	173 70	do
	312	D. Sullivan	154 55	do
	313	W. B. Canary	45 60	do
	314	Jacob Mogley	9 45	do
	315	L. B. Corfaley	275 22	do
	316	A. & W. Reasner	478 95	do
	319	Allen & Bro	67 50	do
	320	Eagle Machine Works	104 00	do
	321	I. L. Spaulding	62 10	do
	322	William E. Edwards	80 35	do
	323	T. L. Canary	240 90	do
	324	A. D. Davis	34 45	do
	325	Daniel Haggerty	113 10	do
	326	Thomas Clifton	74 05	do
	327	A. Huddleson	42 75	do
	328	Patrick Dickson	355 80	do

		Claimants.	Amount.	When due.
	329	A. D. Davis	84 34	Nov. 30, '74
	330	W. Bland	101 90	do
	331	John Inlow	157 50	do
	332	G. M. McLellan	140 55	do
	334	Pat. J. Mulaney	104 00	do
	336	James Wall	167 30	do
	337	John Reidy	71 70	do
	339	O. P. McCarty	157 50	do
	340	I. H. Wilson	107 09	do
	341	W. H. Prouty	255 05	do
	342	W. Drinkout	236 67	do
	343	John W. Brown	8 65	do
	344	John W. Brown	540 00	do
	345	P. F. White	18 00	do
743	346	J. M. Barth	26 00	do
	347	W. Black	36 00	do
	348	C. Kelsey	396 00	do
	349	C. C. Chamberlain	270 00	do
	350	Fred Stricker	90 25	do
	351	S. F. Fond	3 75	do
	352	William Van Schoick	67 50	do
	353	Wiles, Coffin & Smith	262 15	do
	354	S. Fowler	294 40	do
	355	Thomas Burk	450 00	do
	356	J. G. Sanger & Sam'l. H. Birney, admr.	336 15	do
	357	W. Morris	132 80	do
	358	H. C. Feigler	211 50	do
	359	Jno. Huddleson	45 00	do
	360	Charles H. Cady	120 35	do
	361	Thomas Burk	55 70	do
	362	Peter Gallahue	157 75	do
	363	Thomas Young	484 77	do
	364	William Dickerson	175 45	do
	365	Ayer & Lumsden	190 42	do
	366	John Kellihen	244 85	do
	367	Piatt, Hubbell & Co.	119 25	do
	368	F. Motherspaugh	126 00	do
	369	Jno. Roach	125 75	do
	370	Jno. Ryan	89 80	do
	371	Jas. White	65 30	do
	372	F. J. Tilly	90 00	do
	374	Erhart Kramen	51 25	do
	375	Richard Dickson	46 00	do
	376	Frank Stoppy	78 80	do
744	377	Robt. Parker	168 10	do
	378	John Poland	68 40	do
	379	Lawson Booe	1256 40	do

		Claimants.	Amount.	When due.
	386	William Sim	84 00	Nov. 30, '74
	388	John L. & R. Meken	159 75	do
	389	A. J. Wemple	52 05	do
	390	A. J. Wemple	247 52	do
	391	A. E. Weimar	58 50	do
	392	J. C. Maag	8 50	do
	393	Richard Broderick	25 00	do
	394	C. H. M. Woerneke	60 30	do
	395	Frank L. Robinson	113 68	do
	398	G. W. McCurdy	200 90	do
	399	John Kearns	137 00	do
	400	A. B. Gillett	205 19	do
	401	James Dukes, adm'r	257 10	do
	402	Frank Lyons	26 10	do
	403	John W. Jones	157 50	do
	404	W. M. Stover	8 90	do
	405	Herman Stover	89 64	do
	406	Andrew Alson	234 45	do
	407	Jere Ambrose	294 85	do
	408	W. H. Neville	39 65	do
	409	James Braddock	360 85	do
	410	Wm. Preston	111 37	do
	411	John Mealy	41 35	do
	412	Pat Dugan	15 10	do
	413	Fred Borchers	232 40	do
	414	Fritz Meyers	162 00	do
	415	J. H. Wynd	208 50	do
	416	Wm. York	180 00	do
745	417	John Linderot	210 45	do
	418	Huey Hickey	72 45	do
	419	M. J. Spencer	144 00	do
	420	James Spencer	25 55	do
	421	Thos. Richmond	297 05	do
	422	Michael Dolan	202 50	do
	423	James Maloney	121 50	do
	424	Thomas Flynn	20 45	do
	425	Owen Sullivan	135 00	do
	426	John Mulligan	107 40	do
	427	Isaac Lascolett	25 35	do
	428	T. P. Langon	109 50	do
	429	S. C. Langdon	22 85	do
	430	J. W. Brown	41 90	do
	431	Dan Leo	13 20	do
	432	James Fitzpatrick	42 45	do
	433	Jno. Cain	86 65	do
	434	Mastazell Duttinger	136 70	do
	435	Alvin Caldwell	241 20	do
	436	William Donald	240 95	do

		Claimants.	Amount.	When due.
	437	Barney Malloy	79 60	30 Nov., '74
	438	Harry Chester	47 25	do
	439	Michael Kearney	69 90	do
	440	E. C. Blaisdell	20 25	do
	441	Chr. Mott	123 40	do
	442	D. H. Roach	54 00	do
	443	Michael Reagan	61 20	do
	444	W. B. Carr	132 65	do
	445	Jno. Naylor	152 65	do
	446	Jno. W. Lindsey	225 00	do
746	447	Pat. Scott	49 30	do
	448	Reuben McIntyre	54 27	do
	449	P. Padgen	189 00	do
	450	N. Crow	44 10	do
	451	Jno. Reynolds	141 50	do
	452	Fank Bailey	389 10	do
	453	O. Thomas	25 20	do
	454	Frank Donnely	138 10	do
	455	David McClimm	93 35	do
	456	J. H. Helms	337 40	do
	457	Jere Burk	105 10	do
	458	Geo. Cruikshank	496 34	do
	459	John Malone	181 05	do
	460	Robt. Davidson	88 75	do
	461	Jo. Downey	143 68	do
	462	Herman Roland	97 90	do
	463	Jo. Roland	76 50	do
	464	Martin Mower	108 21	do
	465	D. W. Bruce	232 10	do
	466	Tim Blue	16 75	do
	467	Jno. Hill	57 90	do
	468	Rich'd Boyle	212 75	do
	469	M. Donahue	135 00	do
	470	Wm. Voldt	244 80	do
	471	Geo. Cummings	64 50	do
	472	Joseph Beaumont	76 15	do
	473	Isaac Lyttle	37 05	do
	474	E. Kelly	111 32	do
	475	Jos. Johnston	258 05	do
	476	Adolph Maken	263 70	do
747	477	Thos. B. Jones	366 95	do
	478	Alfred Lyons	209 70	do
	479	Dan'l Sanderson	201 75	do
	480	Wm. Holmes	199 20	do
	481	Thos. F. Cunnignham	60 00	do
	482	David Lier	171 40	do
	483	James McWilliams	22 40	do
	484	J. W. Trenary	64 40	do

		Claimants.	Amount.	When due.
	485	W. M. Doyle	196 35	30 Nov., '74
	486	Geo. Doyle	63 50	do
	487	Fred. Shoemaker	190 00	do
	488	M. F. Clark	27 00	do
	489	Patrick Ash	77 90	do
	490	Jno. Stiles	120 45	do
	491	Ed. Duncan	25 10	do
	492	Jas. Lay	173 90	do
	493	C. Hesse	14 60	do
	494	W. L. Pershing	204 95	do
	495	Jno. Noonan	11 25	do
	496	Jos. Miller	248 60	do
	497	Wm. F. Sutton	398 35	do
	498	Pat. Murphy	70 40	do
	499	Henry Teadsey	127 90	do
	500	J. B. Whitsett	230 40	do
	501	Lewis Creigen	212 85	do
	502	John Laird	194 30	do
	503	Charles Creigen	92 70	do
	504	Franck Bickett	64 95	do
	505	John Wahl	261 25	do
	506	Phil. McNey	251 55	do
748	507	Geo. Yanos	287 45	do
	508	S. A. Carter	220 55	do
	509	Chrs. Sell	208 20	do
	510	Gust. Johnson	137 70	do
	511	Timothy Lane	87 75	do
	512	Pat. Ryan	167 40	do
	513	Henry Stewart	196 85	do
	514	F. A. Winslow	17 60	do
	515	Thos. Nolan	6 25	do
	516	E. E. Phillips	635 35	do
	517	Park & Roger	441 70	do
	519	Samuel E. Long	281 88	do
	521	Frank G. Jaques	322 65	do
	522	Samuel Epstein	67 95	do
	523	J. W. Swearingen	40 50	do
	524	Barwick & Baker	47 10	do
	525	Wm. A. Wilkinson	76 50	do
	526	Herman Myer	223 45	do
	527	M. D. Busey	22 40	do
	228	V. W. Shuck	119 25	do
	529	P. D. Smith	164 05	do
	530	A. Johnson	112 55	do
	531	V. W. Shuck	83 95	do
	532	J. W. Shuck	76 50	do
	533	G. G. Webber	4 00	do
	534	Hallister & Baker	49 91	do

		Claimants.	Amount.	When due.
	535	Harriet Stook	34 10	30 Nov., '74
	536	L. Holtzgrape	40 30	do
	537	Dennis Callinan	139 50	do
	538	Charles C. Dorrell	107 40	do
749	539	Cressmen & Bro	7 20	do
	540	Jno. S. French	49 50	do
	541	Joseph Kline	214 60	do
	542	Porter & Terrell	114 80	do
	543	John Early	24 00	do
	544	Thos. Byners	31 30	do
	545	E. M. Joyce	104 20	do
	546	Jas. P. Smith	43 65	do
	547	G. H. Meyer	58 50	do
	548	Patrick Coffey	804 17	do
	449	John Henry	15 30	do
	550	Sara Burk	122 65	do
	551	L. B. Chenoweth	7 70	do
	552	M. Laughlin	212 75	do
	553	Matt O'Heir	230 20	do
	554	Margaret Dunn	72 30	do
	555	A. P. Cunningham & Co.	57 80	do
	556	D. H. Laper	19 05	do
	557	S. W. Busey	25 45	do
	558	Henry D. Stolte	45 00	do
	559	James Coughran	71 35	do
	560	S. A. Canter	45 00	do
	561	Chas. Smith	68 00	do
	562	Stephen A. Allen	228 10	do
	563	John Skillman	197 00	do
	564	A. Bowman	38 85	do
	565	Jo. Creighen	258 50	do
	566	G. W. Dunlap	45 00	do
	567	Jerry Dwyer	316 66	do
	568	Coburn & Jones	177 95	do
750	569	Wesley City Coal Co.	2882 86	do
	571	Levi C. Morris	29 70	do
	572	I. I. McGraw & Son	120 35	do
	573	W. H. Storey	7 50	do
	574	A. J. Storey	98 45	do
	575	Harry Peddicond	20 80	do
	576	Patrick McGuey	52 20	do
	577	Pharis & McMahon	176 25	do
	578	John Storey	15 30	do
	579	James McAboy	24 35	do
	580	C. C. Store	242 65	do
	581	L. Frendenstein	203 70	do
	582	John A. Irwin	216 00	do
	583	A. J. McAboy	204 00	do

		Claimants.	Amount.	When due.
	584	Daniel Craney	49 30	30 Nov., '74
	585	William Peddicord	6 20	do
	586	Frank A. Mans	29 30	do
	587	Allen Coleman	38 90	do
	588	A. J. Allen	258 30	do
	589	A. J. Allen	99 25	do
	590	Chris Schetter	76 50	do
	591	Thos. J. Noble	343 55	do
	592	Charles Edgarton	75 55	do
	593	Pat. Farrell	35 10	do
	594	Thos. O'Dea	129 80	do
	595	Daniel G. Vollmer	249 70	do
	596	Pat. Hughes	166 50	do
	597	Michael Freis	33 90	do
	598	Jno. Kestner	51 75	do
	599	A. Van Tuyl	580 10	do
751	600	Milton R. Miller	396 00	do
	601	Chas. Mayer	23 40	do
	602	Wm. Battorf	202 75	do
	603	Jno. Dyer	75 90	do
	604	Eddy & West	204 85	do
	605	B. Clifford	123 80	do
	606	W. B. Todd	65 95	do
	607	S. F. Ford	329 65	do
	608	R. H. Austin	261 55	do
	609	L. A. McReynolds	110 25	do
	610	H. C. Boyce	202 50	do
	611	James Hayden	190 30	do
	612	N. H. Phipps	180 70	do
	613	Nicholas Motherway	299 45	do
	614	Oscar D. Lewis	11 17	do
	615	A. J. Kingman	550 85	do
	616	Ed. Higgins	30 85	do
	617	Patrick Garvin	75 00	do
	618	Thomas Troy	142 90	do
	619	W. B. Walters	266 70	do
	620	Michael Troy	141 70	do
	621	Patrick Troy	145 05	do
	622	James Shea	61 90	do
	623	Frank Simons	53 45	do
	624	J. C. Murry	211 05	do
	625	James McLaughlin	130 65	do
	626	Thos. Gowren	111 30	do
	627	M. Conroy, Sr	207 90	do
	628	W. K. Owens	195 35	do
	629	Thos. Murphy	36 00	do
752	630	Mike Murphy	96 25	do
	631	John Barrett	77 60	do

		Claimants.	Amount.	When due.
	632	James Ryan	32 40	30 Nov., '74
	633	Lulu G. White	99 00	do
	634	T. E. Halls	225 00	do
	635	C. H. Foster	327 50	do
	636	C. H. Foster	21 27	do
	637	J. A. Clegg	87 50	do
	638	Cabinet Makers' Union	61 40	do
	639	W. H. Restinaux	52 10	do
	640	Jno. F. Yates	265 50	do
	641	Henry Allison	58 75	do
	642	M. Gill	299 25	do
	643	Mrs. C. Jones	296 30	do
	644	Pat. Hand	36 45	do
	645	T. E. Hall	29 45	do
	646	Valentine Meier	148 40	do
	647	W. F. Rapp	56 70	do
	648	John Flemming	59 80	do
	649	Jno. A. Littler	72 45	do
	650	John Dowling	114 10	do
	651	Chas. Cox	72 00	do
	652	John Condon	461 45	do
	653	F. M. Canady	116 40	do
	654	Graham Bros.	443 60	do
	655	Oliver Anderson	29 70	do
	656	Pat Glacken	155 90	do
	657	M. Cadle	76 20	do
	659	W. Kelly	13 85	do
	660	E. S. Alexander	27 50	do
	661	D. F. Hill,	87 40	do
753	662	Con. Cronin	37 15	do
	663	John Condon	225 00	do
	664	Thomas Costello	56 25	do
	665	John Curran	69 75	do
	666	Thomas Brown	77 60	do
	667	Charles Bades	216 00	do
	668	John H. Bolby	158 79	do
	669	S. F. Bell	171 84	do
	670	E. S. Alexander	108 00	do
	671	R. Gallagher	89 30	do
	672	M. Galvin	198 00	do
	673	Joseph Hickman	146 25	do
	674	Fred Hacker	153 60	do
	675	John Hacker	134 45	do
	676	Dake Hockenlay	104 25	do
	677	L. P. Hovey	113 05	do
	678	D. F. Hill	30 00	do
	679	C. Hilliard	48 35	do
	680	H. Jegar	120 65	do

		Claimants.	Amount.	When due.
	681	H. Jegar	265 35	30 Nov., '74
	682	F. Klefker	173 20	do
	683	V. M. Lincoln	67 50	do
	684	Dan. Dwyer	144 05	do
	685	T. Damlo	30 00	do
	686	John Felgnhauer	114 75	do
	687	John Kelly	89 70	do
	688	Jack Kelly	49 30	do
	689	Pat Hart	94 75	do
	690	James Hulihan	88 15	do
	691	John Dawling	225 00	do
754	692	John Dawling	540 65	do
	693	John Dawling	36 40	do
	694	L. A. Lucas & Co	102 30	do
	695	L. A. Lucas & Co	540 00	do
	697	Samuel Backus	110 70	do
	698	Wm. Halihan	92 55	do
	699	John M. McBroom	227 85	do
	700	M. Murphy	64 05	do
	701	P. Mulvihill	51 75	do
	702	Walter Martin	257 75	do
	703	H. J. Meehan	162 25	do
	704	Thomas Roach	14 90	do
	705	Gus Mankt	31 50	do
	706	Daniel McMurney	155 75	do
	707	Pat McIntyre	16 20	do
	709	Pat McIntyre	104 70	do
	710	Pat Murphy	188 35	do
	711	Fred Minke	129 95	do
	712	Mitchell & Crawley	54 40	do
	713	Jos. Yeger	27 00	do
	715	Carle & Hovey	12 50	do
	716	W. B. Rundle	28 00	do
	717	W. J. Crowther	110 55	do
	718	D. S. Benson	51 66	do
	720	Wm. Daggett & Co	231 20	do
	723	F. A. Switzer	142 20	do
	724	Mrs. B. Dickson	53 05	do
	725	Whitney *et al.*	167 04	do
	726	John Walsh	75 05	do
755	727	Robt. Shaw	81 25	do
	728	L. G. Rand	45 00	do
	629	A. B. Carwin	311 48	do
	730	W. R. Throckmorton	16 20	do
	731	Pinckney Bros	126 00	do
	732	N. J. Foley	34 20	do
	733	Henry Baden	351 30	do
	734	A. E. Weimer	23 50	do

		Claimants.	Amount.	When due.
	735	P. Zan & Ward	180 00	30 Nov., '74
	736	A. Kostanzer	49 50	do
	737	Tim. Sheehan	52 50	do
	740	Chris. Watterman	69 77	do
	741	Wm. W. Fletcher	271 30	do
	742	Sarah Conover	31 50	do
	743	N. E. Snow	130 15	do
	744	William Worrall	89 80	do
	745	A. W. Alexander	21 35	do
	746	John B. Johnson	68 40	do
	747	Jos. P. Horton	49 60	do
	748	Lewis Wagner	350 93	do
	749	C. H. Winecup	45 00	do
	750	D. C. Parmele	74 97	do
	751	Alex. Spence	272 78	do
	752	Jos. E. Hunt	308 24	do
	753	Jno. W. Sowers	45 55	do
	754	C. F. Cummings	80 81	do
	755	Tim. Sheehan	160 65	do
	756	Pat. Flisk	107 00	do
	757	Cornelius Grizzin	165 25	do
	758	Jno. Murphy	181 20	do
756	759	Henry B. Bredehozt	43 20	do
	762	Fred. Vutnick	50 00	do
	764	Nicholas Geiger	51 80	do
	765	Henry Stover	365 30	do
	766	Sloan, Johnson & Co.	372 40	do
	768	Jacob M. Troutman	72 00	do
	771	George Bunn	529 65	do
	773	B. A. Buck	54 00	do
	774	Peter Keough	15 95	do
	775	Barnard Dorelan	92 25	do
	776	John Sloan	2 25	do
	777	Ira Abbott	13 00	do
	778	James Perizen	49 50	do
	779	Con Buckley	156 45	do
	780	C. Russ Missell	22 05	do
	781	S. W. Baker	170 50	do
	782	Peter Keough	225 00	do
	783	J. W. Hines	14 75	do
	784	Frank Franz	146 90	do
	785	Chas., Shultz	144 60	do
	786	Barnard Donlan	95 70	do
	787	S. A. Stilwell	29 25	do
	788	Joel M. Barlow	210 85	do
	789	J. D. Brown	162 00	do
	790	J. D. Brown	56 85	do
	791	J. D. Brown	20 70	do

		Claimants.	Amount.	When due.
	792	Jno. Smith	21 00	30 Nov., '74
	793	Henry Marshall	19 70	do
	794	Jno. Davidson	86 60	do
	795	Jo. Boltin	66 00	do
757	796	Reason Boltin	15 00	do
	797	P. H. Scott	35 20	do
	798	Peter Standahar	48 35	do
	799	W. Nebeker	23 15	do
	800	Wm. Boltin	33 20	do
	801	Peter Standahar	19 50	do
	802	J. W. Egbert	65 45	do
	803	J. W. Egbert	17 85	do
	804	Anthony Furlong	225 00	do
	806	John Nally	240 10	do
	805	W. K. Balsley	45 00	do
	807	Anthony Furlong	27 75	do
	808	Jno. Nally	129 96	do
	809	Mark Carley	90 00	do
	810	M. E. Nicholas	49 65	do
	811	Bridget Hogan	48 30	do
	812	James Nicholas	242 39	do
	813	L. H. Parks	118 50	do
	814	M. Y. Coleman	187 90	do
	815	W. B. Bailey	33 85	do
	816	J. F. Humphreys	191 14	do
	817	J. Nicklisson	847 85	do
	818	Michael Naughton	19 30	do
	819	W. J. Lowry	677 80	do
	820	Herman Schultz	22 00	do
	823	Bowen, Stewart & Co	577 58	do
	824	Lamb & Haines	2371 19	do
	825	Lamb & Haines	13 23	do
	826	Lamb & Haines	110 33	do
	829	Julia G. Gahigan	64 40	do
758	830	Humphrey & Rogers	17 25	do
	832	L. Ludorf	18 00	do
	835	James Sexton	53 70	do
	836	John Malone	42 20	do
	837	Jno. Noonan	35 25	do
	838	Michael Mahoney	70 35	do
	839	John Sullivan	66 90	do
	840	Pat. Casey	70 80	do
	841	Jno. Keife	27 35	do
	842	William Hall	12 60	do
	843	Lucas Bros	42 75	do
	844	J. K. Kelly	32 50	do
	845	Heilman & Dremser	143 40	do
	846	J. G. Herget	184 50	do

		Claimants.	Amount.	When due.
	847	Florence Burnett	90 60	30 Nov., '72
	848	Henry Hoer	332 55	do
	849	C. R. Cummings	25 20	do
	850	M. Bailey & Son	206 57	do
	851	J. H. Besaf'k	192 90	do
	852	G. Kaufman	42 05	do
	853	E. M. Wheeler	90 00	do
	854	E. M. Wheeler	45 00	do
	855	A. N. Rolofson	75 00	do
	856	Oberly & Euler	44 00	do
	857	J. & H. Boos	20 00	do
	858	H. J. Jaeckel	16 35	do
	859	Herring & Co	18 00	do
	860	Geo. J. Weber	310 40	do
	861	Lucas Bros	116 45	do
	862	Buchell Bros	45 00	do
759	863	Wm. Bloom	27 65	do
	864	C. J. Elliott	18 05	do
	865	John Cahill	15 60	do
	866	Thomas Kelly	136 80	do
	867	Dennis Mahoney	50 45	do
	868	Wm. M. Lucas	117 35	do
	869	J. H. Franks (439.15 of this due I., B. & W. R. R. Co., on D. T. Thompson's account)	560 30	do
	870	Schippen & Black	21 70	do
	871	D. Knappel	74 35	do
	872	L. Deitrick	9 00	do
	873	John J. Zimmer	25 00	do
	874	Pat Wheelan	18 75	do
	875	Charles H. Ketcham	73 15	do
	876	Edwin H. Price	184 75	do
	878	Geo. Ater	110 23	do
	879	Pat Lynch	24 60	do
	880	S. & M. Solomon	77 65	do
	882	S. Meeker	78 65	do
	883	John Mink	138 95	do
	885	L. J. McCray	30 40	do
	886	P. Sheehan	44 45	do
	887	Tim O'Connell	776 55	do
	888	Frank McCarty	150 25	do
	889	N. Thompson	250 00	do
	890	Thos. Moran	102 60	do
	891	C. Friedgen	375 00	do
	892	M. Frees	16 20	do
	893	John H. Lewis	2027 50	do
760	894	John E. Knox	709 40	do

		Claimants.	Amount.	When due.
	895	H. Raines	1540 00	30 Nov. '74
	896	Pat McDonald	197 50	do
	897	Sam'l Shultz	136 80	do
	898	Wm. Shultz	128 25	do
	899	Charles Saddewasser	109 10	do
	900	H. B. Stewart	121 30	do
	901	Walter Vaughan	28 50	do
	902	G. W. Smith	162 00	do
	903	E. Silkey	10 95	do
	904	Pat. Ruddle	49 55	do
	905	Pat. Ruddle	54 00	do
	906	John Roach	180 00	do
	907	J. F. Robison	129 80	do
	908	Barney Sheehan	246 80	do
	910	B. Sheehan	42 50	do
	911	Swearingen & Shreve	99 42	do
	912	Swearingen & Shreve	40 50	do
	913	Con. Reagan	225 00	do
	914	Jno. Poggendorf	129 35	do
	915	Maxwell, Wheeler & Co.	88 56	do
	916	Weed Eng. & Pipe Co	144 00	do
	917	Crescent Spring	482 14	do
	918	O. Shreve	90 00	do
	919	Christ. Priest	74 94	do
	920	A. Marny	77 60	do
	921	J. Rawling	172 40	do
	922	Geo. H. Heitkam	234 54	do
	924	G. W. Wheat	6 30	do
	925	Stephen Fowler	35 45	do
761	926	N. Abrahamson	74 75	do
	927	W. Evans	21 55	do
	928	J. Condon	108 10	do
	929	J. E. Howe	7 65	do
	930	J. E. Howe	47 70	do
	931	W. Hervey	19 05	do
	932	T. C. Tomlinson	10 10	do
	933	Henesey	47 20	do
	934	Erastus Rhodes	89 55	do
	935	C. J. Elliot	119 82	do
	936	Wm. Pfafflin	274 89	do
	937	J. Dobson	60 30	do
	938	G. H. Williams	144 65	do
	930	M. Lindley	42 75	do
	940	C. S. Linsenbry	28 80	do
	941	Hannah Curran	21 25	do
	942	D. Shehan	9 65	do
	943	John McNamara	243 00	do
	944	Becker & Schwings	171 04	do

		Claimants.	Amount.	When due.
	945	Susan Trout	82 10	30 Nov. '74
	946	Atlas Works	220 00	do
	947	Crerar, Adams & Co	1400 95	do
	948	John Birney	55 35	do
	949	Thompson & Pollard	13 85	do
	951	W. W. Ward, Adm'r	67 00	do
	953	L. Kahn	113 35	do
	954	Jos. M. Whitsett	17 70	do
	956	J. Brandstetter	9 70	do
	957	Samuel M. Noel	23 65	do
	658	Eagan & Treat	167 77	do
762	960	John Tucker	74 80	do
	961	Jno. Roef	104 80	do
	962	Wm. Lardison	122 40	do
	963	Geo. Rogena	168 15	do
	964	Dirk Tjarks	151 90	do
	965	Henry Runts	150 50	do
	966	E. A. Casey	67 50	do
	967	N. Shirtleff	9 00	do
	968	J. G. Thume	62 10	do
	970	Carl Roll	176 50	do
	971	Chas. Polster	86 50	do
	972	Jacob M. Main	105 15	do
	973	Chas. J. Schnider	121 59	do
	975	H. A. Verrill	108 00	do
	976	H. N. Joe	30 00	do
	977	A. P. Poor	9 40	do
	978	T. J. Hogan	62 30	do
	979	Mossler & Bro	21 90	do
	980	C. Kinander	101 95	do
	981	Roll & Morris	65 25	do
	982	Gladden, Cope & Hunt	783 57	do
	984	Hall & Wasson	100 00	do
	985	D. D. Bladock	16 25	do
	986	Pat. Walsh	161 50	do
	988	T. Rigdon	10 00	do
	989	Ahren & Rigdon	175 00	do
	990	James H. Wandall	170 60	do
	991	Thos. Little	26 55	do
	992	J. McManomy, assigned to A. Gist	173 00	do
	993	J. Clove	174 60	do
763	994	Dain, Westlake & Co.	585 40	30 Nov., '74
	995	A. Gunnison & Co.	4327 02	do
	996	Amos Hook	84 00	do
	997	Geo. Glasscock	387 00	do
	999	C. R. Watson	62 50	do
	1000	G. W. Parnell	19 26	do

		Claimants.	Amount.	When due.
	1001	Delworth, Porter & Co.	4168 54	30 Nov., '74
	1002	W. H. Brown	100 00	do
	1003	R. M. & W. C. Lockhart	77 15	do
	1004	Abdill Bros.	27 00	do
	1005	W. Hurley	57 40	do
	1006	Pat Casey	8 25	do
	1008	Joseph Bailey	18 75	do
	1009	Jno. Farrell	48 15	do
	1010	Martin Brachall	23 00	do
	1011	H. M. Kimball	33 25	do
	1012	Thos. Connor	68 40	do
	1013	Pat. Rosater	81 00	do
	1014	J. G. English	405 85	do
	1015	Charles Stubbins	114 65	do
	1016	Clinton D. Hunter	20 00	do
	1017	Jno. Groat	50 65	do
	1018	W. W. R. Woodbury	58 55	do
	1019	Wm. Henley	59 05	do
	1020	Fred. Shultz	101 00	do
	1021	Wm. Sillimon	68 60	do
	1022	M. Barnett	14 15	do
	1023	Jacob Hill	33 05	do
	1025	Smith, Felton & Co.	204 30	do
	1026	Bernhardt Goldsmith	165 55	do
764	1027	Adams As'g B. & Supply Works	6426 63	do
	1028	Indianapolis Chair Co.	250 00	do
	1029	Francis Kay	101 90	do
	1031	William Whitehead	59 40	do
	1036	E. D. Webster	11 45	do
	1037	Francis Lowe	40 50	do
	1040	John A. Saylor	24 30	do
	1041	H. J. Oakwood	26 10	do
	1042	R. M. Gapen	10 42	do
	1043	Jno. C. Brown	41 70	do
	1044	Gabler & Sherer	395 25	do
	1045	Albert A. Knapp	160 75	do
	1046	J. Fitzgerald	14 40	do
	1047	R. Maher	225 00	do
	1048	W. S. Marshall	254 00	do
	1049	Pat. Given	100 05	do
	1050	M. C. Straight	174 40	do
	1051	N. J. McConny	171 00	do
	1052	Mooney, Taylor & Smith	1779 40	do
	1053	D. S. Hartshorn	283 44	do
	1054	J. C. Walk	161 68	do
	1056	Chandler & Taylor	72 90	do
	1057	Wm. Burford	107 00	do

		Claimants.	Amount.	When due.
	1058	A. Burdell	180 00	30 Nov., '74
	1059	W. E. Walters	78 40	do
	1060	J. R. Stewart	13 20	do
	1061	H. C. Diehl	40 05	do
	1062	H. C. Diehl	552 15	do
	1063	J. W. Adams	153 75	do
	1064	J. L. Frankem	188 20	do
765	1065	J. G. English	265 63	do
	1066	E. Wells, Lackett & Bro	308 80	do
	1067	M. Conroy	41 20	do
	1068	Ind. Transfer Co	227 71	do
	1069	West. U. Tel. Co	376 82	do
	1070	Dell & Sons	34 85	do
	1071	Nancy Webb	62 80	do
	1073	Frank Linderman	27 00	do
	1074	David Coulter	39 07	do
	1075	W. G. Fuller	180 00	do
	1076	Hillman & Sons	697 92	do
	1077	D. W. Ross	72 40	do
	1078	Elijah Henry	72 55	do
	1079	A. C. Bryant	53 55	do
	1080	L. F. Custer	17 73	do
	1081	Jno. Deo	157 50	do
	1082	G. W. Harmison	262 47	do
	1085	Jno. W. Adams & Co	435 60	do
	1091	Gulick, Taylor & Co	41 50	do
	1096	D. R. Fenderson	116 00	do
	1097	W. H. Posey	232 40	do
	1098	Mary Marks	55 00	do
	1099	Boots & Canine	12 37	do
	1100	A. C. Jennison	7 20	do
	1101	Jno. Sullivan	13 50	do
	1102	Busey Bros	747 22	do
	1103	Dennis O'Conner	9 00	do
	1104	E. H. Cushman	86 80	do
	1105	Wm. Webb	332 95	do
	1106	Wm. Brotherton	263 00	do
766	1107	Ed. Maugher	25 90	do
	1108	Thos. Kennedy	14 05	do
	1109	Peter Peterson	74 90	do
	1110	Jno. Tooley	30 00	do
	1111	F. Leolatzack	114 10	do
	1112	Chas. Schonheider	30 00	do
	1113	H. O. Case	127 56	do
	1114	Dan'l Keplinger	50 95	do
	1115	J. S. Clark	49 40	do
	1116	James Phillips	127 25	do

		Claimants.	Amount.	When due.
	1117	George Pierce—Frank O., admr	164 42	30 Nov., '74
	1118	Martin Hullihar	70 85	do
	1119	J. W. Nichols	12 70	do
	1120	L. T. Wright	32 50	do
	1121	Joseph Tool	25 85	do
	1122	Hiram Radley	295 00	do
	1123	J. B. Mercer	9 15	do
	1124	Gus. Freeman	52 20	do
	1125	Peter Hamilton	67 60	do
	1126	Wendell Fariston	101 45	do
	1127	Wilbur Holmes	110 63	do
	1128	John Tierney	18 75	do
	1129	Wm. Stiebing	190 10	do
	1130	Lewis Holliday	90 00	do
	1131	L. Paramore	20 00	do
	1132	James Fulton	143 05	do
	1133	Thos. Murry	217 70	do
	1134	Wm. Williamson	94 00	do
	1135	Thos. McCrabb	67 65	do
	1136	Chas. Backus	243 80	do
767	1137	Michael Matherway	6 30	30 Nov., '77
	1138	Dennis O'Brien	95 05	do
	1139	A. W. Yant	72 05	do
	1140	A. L. Woodard	162 00	do
	1141	Jesse Wilkerson	144 00	do
	1142	Jos. W. Wenger	95 15	do
	1143	Pat. Kelly	137 95	do
	1144	Sam'l Carson	109 95	do
	1145	D. C. Darsett	108 00	do
	1146	Lewis Miller	199 05	do
	1147	Philip Johnson	140 85	do
	1148	Jas. C. Dunning	202 50	do
	1149	Jno. B. Roher	177 25	do
	1150	C. W. Baker	225 35	do
	1151	Jno Kennedy	144 00	do
	1152	Wm. Burk	65 25	do
	1153	Jno. Doudel	24 85	do
	1154	Michael Egan	38 25	do
	1155	Dan Kellinan	142 65	do
	1156	Edward Swan	333 83	do
	1157	Jno. Webb	111 15	do
	1158	F. Shree	76 20	do
	1159	J. Jackson	87 40	do
	1160	Thos. Sheehan	69 45	do
	1161	Geo. B. Lott	33 85	do
	1162	Thos. Stofer	163 65	do
	1163	James Fahey	9 50	do

		Claimants.	Amount.	When due.
	1164	L. W. Glass	270 00	30 Nov., '77
	1165	Jno. Rotholz	84 53	do
	1166	Edward Bartley	108 50	do
768	1167	Al. Hampton	60 95	do
	1168	Rit. Calhoun	127 90	do
	1169	D. C. Crist	5 40	do
	1170	Jno. Adams	27 60	do
	1171	Martin Ryan	51 75	do
	1172	James Barnard	19 60	do
	1173	Wm. Keller	46 90	do
	1174	Thos. McWilliams	52 08	do
	1175	Aurelia Kellerstrans	165 25	do
	1176	J. V. Phillips	136 55	do
	1177	Cornell & Smith	62 05	do
	1178	Mrs. Ann Peters	104 75	do
	1184	Vail & Moody	1011 74	do
	1187	Jno. Russell	34 45	do
	1188	Barrett White	11 70	do
	1190	Frank Mayer	31 95	do
	1191	M. Raphel	15 30	do
	1192	Otterheimer Bros	5 85	do
	1193	M. Bushell	45 00	do
	1196	J. A. Weil	28 00	do
	1197	L. J. Bond	701 05	do
	1198	James Dunlap	13 95	do
	1199	Spiegel, Thoms & Co	369 59	do
	1201	Wm. McLaughlin	30 25	do
	1202	M. Milford	68 60	do
	1203	D. W. Parmelee	41 80	do
	1204	Jno. Kiler	408 25	do
	1205	C. W. Philips	7 35	do
	1206	M. Wright	37 70	do
	1207	W. Neff & Co	45 00	do
769	1208	T. J. Hogan	27 00	do
	1209	A. Hedge	116 35	do
	1210	C. Hicks	54 45	do
	1211	Pat. Curry	140 40	do
	1212	Jno. Sechrist	127 80	do
	1213	J. Runyan	135 00	do
	1214	W. Slake	173 25	do
	1215	Pat. Kearney	69 35	do
	1216	W. R. Moore	67 70	do
	1217	B. F. Tomlinson	180 00	do
	1218	City of Urbana	372 00	do
	1219	Green & Co	22 73	do
	1220	J. A. Littler	60 75	do
	1221	Pat. Roerdon	42 30	do
	1222	J. A. Newton	135 05	do

		Claimants.	Amount.	When due.
	1223	Jno. Ellis	101 44	30 Nov., '77
	1224	S. M. Noel	12 50	do
	1225	Jas. Sullivan	13 50	do
	1226	Hopkins & Morron	185 75	do
	1227	Rigley & Cutter	401 40	do
	1228	W. S. Mead	135 00	do
	1229	D. H. Parmele	507 65	do
	1230	O. McLaughlin	14 25	do
	1231	O. McLaughlin	94 10	do
	1232	W. W. Munspeaker	80 95	do
	1233	N. R. Baker	62 50	do
	1234	J. W. Hines	180 00	do
	1236	E. E. Faleming	160 55	do
	1237	L. M. Fairbanks	114 30	do
	1238	J. F. Housman	180 00	do
770	1240	P. Anderson	32 95	do
	1241	E. A. Davis	78 65	do
	1242	Ed. E. Shaw	15 65	do
	1243	P. J. Murphy	29 25	do
	1244	A. J. Poole	152 75	do
	1245	Landis, Caldwell & Co	513 78	do
	1146	E. P. Miller	25 33	do
	1249	J. W. Hendricks	405 95	do
	1250	Jno. Lightle	300 00	do
	1251	B. M. Chaffee	1 75	do
	1252	J. W. Flynn & Co	2540 27	do
	1253	Ill. Printing Co	1278 45	do
	1254	Spiegel, Thoms & Co	43 00	do
	1255	Inds. R. Mill Co	12924 15	do
	1256	R. H. Carnahan	546 05	do
	1257	J. D. McKenzie	30 50	do
	1258	Oscar Lay	81 25	do
	1259	Fred. Eynatten	25 00	do
	1260	Williams Tool Co	320 00	do
	1261	Geo. Wooden	6434 03	do
	1262	Julia Tully	48 65	do
	1263	P. W. King	198 20	do
	1264	Pat. Thornton	138 40	do
	1266	J. G. Blaine	660 00	do
	1269	J. W. Perkins	59 65	do
	1270	Jno. Ryan	77 10	do
	1271	H. Simerton	18 50	do
	1272	Mrs. J. W. Burk	295 00	do
	1273	D. P. Bagley	75 00	do
	1274	H. Connerty	77 00	do
771	1275	J. O'Brien	536 30	do
	1276	James Throckmorton	28 45	do
	1277	H. H. Hackman	28 10	do

		Claimants.	Amount.	When due.
	1278	Thos. Cassidy	95 15	30 Nov., '77
	1279	A. Herrenknecht	281 70	do
	1280	J. W. Sparks	72 95	do
	1281	J. McCarty	23 80	do
	1282	W. Morrison	23 40	do
	1283	Pat. Rowan	243 80	do
	1284	Owen Smith	162 70	do
	1285	Pat. Hickey	212 60	do
	1286	James Welsh	199 80	do
	1287	Samuel M. Camfern	25 00	do
	1288	Simon Toulin	29 20	do
	1289	Graham Bros	440 65	do
	1291	D. F. Lewis	119 70	do
	1292	Henry S. Apple	10 80	do
	1293	H. Reddicord	45 74	do
	1294	Wm. I. Saffle	120 40	do
	1295	Thos. Cooper	56 15	do
	1296	B. Stimler	8 00	do
	1297	H. Swannell	30 00	do
	1298	Loranda Green	22 00	do
	1299	A. Huff	29 00	do
	1300	J. P. Webber	12 60	do
	1301	W. D. Yount	56 90	do
	1302	E. R. Miller	135 00	do
	1303	J. A. Howland	31 25	do
	1304	G. L. Bona	17 35	do
	1305	C. L. Lowentrout	8 55	do
772	1306	W. F. Larrimore	41 55	do
	1307	Chas. Smith	50 50	do
	1308	C. C. Culbertson	195 20	do
	1309	John M. Longstreth	77 00	do
	1310	Miner Neal	123 80	do
	1311	Chas. Reily	105 80	do
	1312	Henry Hunt	225 00	do
	1313	Jno. Bradbury	68 60	do
	1314	Jas. Broderick	75 15	do
	1315	Jno. J. Craig	57 45	do
	1316	J. Case	20 25	do
	1317	Jno. Clifford	129 40	do
	1318	David Rhodes	93 40	do
	1319	A. C. King	8 90	do
	1320	Jack Downey	31 05	do
	1321	Berry Adams	37 10	do
	1322	Patrick Dell	115 90	do
	1323	A. Seymour	116 35	do
	1324	Volney Freeman	67 75	do
	1325	George Tamsett	411 40	do
	1326	Nelson & Kidder	41 60	do

		Claimants.	Amount.	When due.
	1328	Cratty Bros	96 15	30 Nov., '77
	1329	Henry Meyer	72 00	do
	1331	James Grant	81 00	do
	1332	J. T. Neal	56 30	do
	1333	D. J. Ford	58 55	do
	1335	L. A. Lucas & Bros	24 90	do
	1336	Pitts. Cin. & St. L. R. R	3634 90	do
	1338	A. P. Lewis	600 00	do
	1342	John Foster	74 00	do
773	1343	E. G. Cornelius	306 00	30 Nov., '74
	1344	L. Q. Jones	71 25	do
	1347	D. E. Stout	9 50	do
	1348	R. W. Parker & Co	689 73	do
	1352	T. J. Dolan	722 80	do
	1354	Smith, Hippen & Co	40 25	do
	1353	Nelson Phipps	19 50	do
	1354	Mooney, Taylor & Smith	188 34	do
	1358	Gookins & Martin	9 00	do
	1359	B. E. Smith	821 38	do
	1360	J. W. Wallace	118 35	do
	1361	W. H. Smith	144 05	do
	1362	D. W. Snider	21 60	do
	1363	Parratt, Nicum & Co	28 50	do
	1364	M. Peterson	271 05	do
	1365	L. Mayer	1003 43	do
	260	Lincoln Coal Mining Co	1440 87	Jan. 1st, '75
	264	A. Snedeker	7092 63	Nov. 30, '74
	381	J. C. Black	15 05	do
	382	A. H. Palmerton	189 55	do
	383	Lyman Tenner	103 90	do
	384	Miner T. Ames Co	720 00	do
	397	Webster, Davis & Co	4268 43	do
	714	Jno. S. Little	259 24	do
	738	J. W. Thompson	1802 90	do
	761	H. & J. M. Barden	129 85	do
	767	John Bowers	150 00	do
	769	J. D. Brown	24 00	do
	770	J. W. Hines	99 60	do
	772	N. S. & W. M. Hodge	11 28	do
774	959	Thomas G. Golden	7176 36	30 Nov., '74
		3492.10 payable to B. E. Smith.		
	983	Jesse Jones	414 51	do
	1180	L. H. Mossler	59 65	do
	1330	Alvy C. Walker	64 35	do
	1337	James & Jno. Curley	940 00	do
	1179	2d Nat. Bank of Peoria, Ill.	12000 00	Aug. 29, 1874
	261	Dickerson and English	185 80	Nov. 30, '74

		Claimants.	Amount.	When due.
	316	Jefferson Furnace Co	1246 18	Feb. 14, 75
	719	Root & Benson	1246 18	do
	1089	S. E. Kenyon	32 00	Nov. 30, '74
	1367	Dickerson & English	260 67	do
	760	Buckner & Coulson	682 40	do
	821	Loomis & Co	772 24	do
	833	Eli Meiser	1583 50	do
	834	Hoops & Townsend	691 76	do
	1035	H. A. Ewing	43 00	do
	1084	Geo. E. Howard	2454 11	do
	1088	C. L. Reynolds	1534 30	do
	1092	E. Armstrong	31 00	do
	1094	W. Dixon	43 00	do
	1368	Citizens' Nat. Bk. Indpls.	5445 54	Oct. 23d, 1874
	955	Layman, Curey & Co	2537 93	Sept. 12, '74 $1132 06 Dec. 5, '74 $1405 87
	1181	C. F. Lucas	855 20	30 Nov., 1874
	1182	Lucas & Finch	1097 00	do
		Finch, for Maddux	870 00	Oct. 26, do
	305	F. Turnman & Bro	2542 21	30 Nov., do
775	1186	John Kitchen	358 00	14 Dec., '74
	1353	W. J. Morden For use of 1st Nat. B'k. & J. M. Nichol.	862 84	30 Nov., '74
	1371	C. W. Fairbanks	16 00	do
	1369	Jesse M. Richards	4074 09	do
	263	Hibben, Kennedy & Co	1497 08	do
	252	D. V. Cunningham	725 24	do
			$305,104.33	
	335	Barnum & Richardson, petition and reports thereon of Bishop, master in Illinois	2502 96	20 Dec., '74

These supplies appear to have been furnished, mostly in 1873, with credit given until Dec. 20, 1874.

776 *Schedule "B."—Master's Report on I., B. and W. Claims.*

Claims for which the claimants paid less than face.

	Claimants.	Amount.	When due.
56	W. L. Luggett Paid $538.58.	$583 15	30 Nov., '74

	Claimants.	Amount.	When due.
180	Adams, as'gn'e Northrup-- Paid 90c. for ¾; 80c. for ¼.	6466 20	30 Nov., '74
181	James A. McKenzie----- $200 at 90c. on dol.	6792 53	do
191	R. R. Parker---------- Paid par except $25 @ 95c.	392 23	do
281	William Burk---------- Paid $15.60.	27 90	do
289	A. F. Ramsey---------- $193.50 at 90cts. on dol. $55 paid $45 for.	1530 95	do
233	David Rawles' estate------- Paid $26.60.	39 22	do
234	Nebeker & Gish---------- Paid $550.00.	696 05	do
302	W. W. Coe---------- Paid 10 per cent for 163.00 of this.	371 70	do
304	G. F. McGinnis, ass'g Bingham ---------- $475 at 85 & 475 at 90cts.	2414 35	do
396	John Beard-------- Paid 90c. on $129.00.	495 40	do
722	Dan'l Morrison---------- Gave face for $30.90; advanced $40 on bal.	101 60	do
763	Raelf & DeVries---------- Paid for $25 *certif.* $10 as loan----------	362 76 362 76	do do
		$20,274 04	
777	Am't Forw'd------	20274 04	30 Nov., '74
877	John Weedman---------- Paid for at $160.00.	270 00	do
923	W. F. Slater---------- Paid 50c. on dol.	1201 35	do
1033	L. Abbott---------- Paid 90c. on dol.	100 75	do
1034	Isaac Kahn---------- Paid 75c. on dol.	1815 00	do
1185	C. A. Rathbone---------- For $15.00 paid $13.50.	331 80	do
1200	G. Beckerholdt---------- Paid 75 dol's for it.	222 00	do
1247	Dawes & McGettigan------ Paid 60c. on dol.	171 05	do
1334	D. Gramman---------- Paid 85c. on dol.	35 45	do

	Claimants.	Amount.	When due.
271	A. C. McPheeters---------- Paid $23 for claim.	229 05	30 Nov., '74
296	Dennis Leary---------- Paid $54.50 for $63.	251 80	do
206	Alphonso Lemp---------- Paid 80c. on $638.88.	2044 69	do
1327	Patrick Coffey---------- Paid $150.27.	195 95	do
739	Henry Dugan---------- Paid $25. for it.	93 40	do
708	Pat. McIntyre---------- Gave $60.50 for it.	129 40	do
		$27,357 73	

778 *Schedule "C."—Master's Report on I., B. and W. Claims.*

Assigned Claims.—No evidence as to discounts.

	Claimants.	Amount.	When due.
175	H. C. Oliver---------- $89.75 assigned.	$389 35	30 Nov., '74
203	Isaac Lammers---------- Assigned certifi. & orders on pay.	420 15	do
270	Kelly & Huff---------- Assig'd certifi. and orders.	189 35	do
373	Parker & Hopkins---------- Orders ag'st pay.	99 00	do
1007	Thomas Rinn---------- Orders ag'st pay.	2701 84	do
1183	David Myer----------	223 00	Oct. 26, '74.
		$4022 69	

779 *Schedule D.—Masters' Report on I., B. W. Claims.*

Stock Killed.

	Claimants.	Amount.	When due.
50	B. F. Ayton----------	$44 00	30 Nov., '74
333	Catherine Rusche----------	33 00	do
881	W. J. Lowrey----------	60 00	do
950	Goldsmith Goodin----------	37 50	do
1357	E. H. Robinson----------	25 00	do
1366	J. B. Picketts----------	82 00	do
		281 50	

780 *Schedule C.—Masters' Report on I., B. & W. Claims.*

Claims Disallowed.

	Claimants.	Amount.
47	Mrs. L. J. Stickney	$117 00
48	Jackson Oliver	50 00
49	J. L. White	50 00
227	Bloomer Penner	37 92
228	William Hughes	25 00
241	Elliott N. Bowman	80 10
247	T. J. Smith	35 00
253	William O'Brien	40 00
268	Harris Reynolds	4,000 00
518	G. H. Meyer	36 00
520	J. A. Myers	18 00
570	Jno. Campbell	693 80
720	John T. Beasly	121 38
827	Zachariah Clem	120 00
828	Sander Slatten	20 60
969	Frank Bradley	18 00
987	Jno. McLean	24 30
998	George Foster	200 00
1024	A. C. Bryant	270 00
1030	Jesse Palmer	240 00
1032	Gere & Riley	496 80
1055	I. Peterson	54 00
1086	Lorenzo Bove	24 85
1090	Wm. Train	387 50
1189	S. A. Wilson	17 55
1095	Hugh R. Walker	31 20
1239	George Nebeker	735 44
1249	Mary Hendricks	30 00
1345	Michael Curley	27 50
1346	C. Irons	59 45
1349	J. H. Hart	40 00
1351	Henry Cirkling	26 00
1087	Sackett & Co	43 35
1194	Jno. N. Stout	100 00
		8,270 74

781

1339	James J. Devalon	21 25
1340	Sam'l McKee	168 42
1350	William Marworth	298 50
46	E. H. Rood	2,064 52
338	Edward Goggle	246 95
1038	James A. Harpshaw	2,000 00
1265	Nebeker & Gish	4,617 16
952	David Case	63 75

	Claimants.	Amount.
1039	S. C. Conwell.....	109 15
1093	Jno. Plummer.....	42 40
822	Adams and Westlake Manf'g Co..	165 50
1267	Francis M. Black	372 60
1290	W. R. Fosdick.	9,316 66
254	Hinckley Locomotive Works.....	14,000 00
974	C. W. Tripp....	47 25
1083	Wm. McCafferty.....	131 95
		41,936 80

782 *Schedule F.—Masters' Report I., B. & W. Claims.*

Attorneys' Fees and Salaries of Officers.

	Claimants.	Amount.	When due.
380	McDonald & Butler... Attorney fee.	$839 35	Nov. 30, '74
831	Weldon & Aldrich..... Att'y fee.	780 00	do
1235	Robt. G. Ingersoll..... Att'y fee.	4,035 48	do
1370	C. W. Fairbanks..... Att'y fee.	390 05	do
1268	B. E. Smith..... President's salary.	1,750 00	do
385	Clark R. Griggs, salary and expenses as V. Pres't.....	1,436 77	do
		9,231 65	

783 And afterwards, to wit, at the November term of said court, in recess thereof, on the 7th day of December, 1877, the following further proceedings in the above entitled cause were had, to wit:

Comes now the Farmers' Loan and Trust Company, by counsel, and files its exceptions to the report of the master in the matter of the intervening petition of the Western Car Company herein, in the words following, to wit:

In the matter of the reference of the claim of the Western Car Company, for rental for six months prior to the date of the receiver taking possession, &c., before J. D. & L. Howland, Esqs., special masters.

And now comes the said Farmers' Loan and Trust Company and excepts to the report of said masters, and assigns as cause of exception—

1. That said report is not in accordance with the order of reference.

2. Said report is not sustained by the evidence.

3. Said report is contrary to the evidence.

4. Said report sustains the fraudulent contract entered into between the Western Car Company and the said I., B. & W. Ry. Co. when said had been expressly to be fraudulent and void by the court.

5. Said report is not for a *quantum meruit* as required by
784 the order of reference, but is based upon said fraudulent and void contract.

6. Said masters should have reported that said railway company did not need, and that it was bad policy to have rented, more than one-half of said cars. That at least three hundred of said cars were in bad order, and not in a condition to be worth ordinary rental; and that about one hundred of said cars were totally unfit for use and were not used during said six months; ;and that for such others as were used a reasonable basis and *quantum meruit* of rental would have been the mileage made by said cars at one and one-half cents per mile.

7. Said masters should have reported that a *quantum meruit* for the use of said cars of the Western Car Company by the said I., B. & W. Ry. Co., for the said six months prior to the time the said receiver took possession, was the sum of thirty-eight thousand and four hundred dollars and no more.

8. Because said finding is grossly excessive in amount, and contrary to equity and good conscience, and not true either in fact or law.

For the above reasons and others that will be shown to
785 your honor on the hearing hereof, the said report should be set aside and disallowed.

FARMERS' LOAN AND TRUST COMPANY,
By R. E. WILLIAMS AND
C. W. FAIRBANKS, *Counsel.*

And at the same time the said Farmers' Loan and Trust Company also filed its exceptions to the report of the masters upon the claim of F. A. W. Davis and others herein, in the words following, to wit:

In the matter of the reference of the intervening petition of F. A. W. Davis et al. to J. D. & L. Howland, Esqs., special masters.

Now comes the Farmers' Loan and Trust Company and excepts to the report of said masters, and assigns as cause of exception the following:

Said masters should have credited all payments made on petitioners' claims, or the claims within the six months.

Said masters should only have allowed petitioners the amount

paid by them for said claims, to wit, the sum of $19,742.12, and deducted therefrom the whole amount paid on said claims by said receiver, to wit, the sum of $2,400.65, leaving the balance in favor of petitioners $17,341.57.

3. Because said report is not sustained by either the law or
786 the evidence, and is excessive.

For the above reasons and for others that will be shown on the hearing hereof, the exceptor prays the same be set aside and held for naught.

FARMERS' LOAN AND TRUST COMPANY,
By R. E. WILLIAMS,
C. W. FAIRBANKS.

And afterwards, to wit, at the November term of said court,
787 on the 10th day of December, 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Come now F. A. W. Davis and others by Messrs. Claypool, Newcomb and Ketcham, their solicitors, and file their exceptions to the report of the master herein in the words following, to wit:

Exceptions are taken by Frederick A. W. Davis and others, composing the Indiana Banking Company, to the report of John D. Howland and Livingston Howland, masters of this court, made on the 8th day of November, 1877, on their intervening petition—

1st. The said masters have set forth and allowed in their report in favor of said claimants only the sum of $19,375.31, whereas they should have set forth and allowed the further sum of $2,232.88 on account of labor done prior to June 1st, 1874, the said sum of $2,232.88 being for labor done during months just previous to June, 1874, mostly in the month of May, as shown by the evidence. All of the claims of the said Davis et al. having been purchased at the special request of the receiver of this court, and on further orders
788 which prior to the purchase of said claims had been made herein providing for the payment of said claims out of the earnings of said road.

The earnings of the road in the hands of the receiver have been more than sufficient to pay this and all like claims, as from the evidence will fully appear.

2nd. The finding and conclusions of said master are contrary to law and equity and contrary to the evidence.

3rd. The masters erred in not allowing interest on said claims.

In all of these particulars said Davis et al. except to the report of said masters and appeal therefrom to this honorable court.

CLAYPOOL, NEWCOMB & KETCHAM,
Solicitors for F. A. W. Davis et al.

789 And afterwards, to wit, at the November term of said court on the 11th day of December, 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the follow-

ing further proceedings in the above entitled cause were had, to wit:

Come now Edward H. Mayo and others by Claypool, Newcomb & Ketcham, their solicitors, and file their exceptions to the report of the master herein, in the words following, to wit:

In the matter of the several intervening petitions hereinafter mentioned each of the petitioners hereinafter mentioned severally make and take the exceptions hereinafter mentioned to the report of the masters in their respective petitions.

Edward H. Mayo. Exception of Edward H. Mayo to report of masters filed Nov. 16, 1877, shows that said report does not set forth and show the full amount of the said Mayo's claim as the same is shown and proved by the evidence, in this: that said report only allows claimant $7,057.71, whereas on the proof made the allowance should have been $13,600.

The masters should have allowed for all that part of said claim which was for supplies furnished in May, 1874. And claim-
790 ant now prays judgment of this court, &c.

Indianapolis Rolling Mill Co. The said rolling mill company excepts to the finding of the masters for that said report does not show and set forth the full amount of the claims of said rolling mill company, in this: that it only shows and allows claimant $12,924.15, whereas the claim as shown by the evidence should have been allowed to the full amount demanded, to wit, $.

And the said masters should have applied the payments made upon the notes mentioned in the petition, leaving for supplies furnished since the 1st of June, 1874, the sum of $21,989.67, as shown by the evidence now unpaid, and the amount for supplies furnished in May should have been allowed. The claimant appeals from the finding of said masters and prays judgment of the court.

David Stout excepts to the report of the masters for that it does not set forth and allow all of his claim, as the same is shown by the evidence, in this: that it does not allow for that part of said claim which accrued during May, 1874, and only allows $748.87, whereas $819 should have been allowed.

791 *John Gere* excepts to the report of the masters for that it does not set forth and allow his claim of $496.80, as the evidence shows they should have done, and their finding is contrary to the law and evidence, in that it did not allow the amount accrued for supplies furnished during May. And the claimant prays judgment of this court whether his claim ought not to be allowed under the law and evidence.

William B. Binford excepts to the report for that it does not allow the full amount of his claim, $340.80, but only allows $107. And he prays judgment of this court whether the whole of his claim ought not to be allowed under the evidence.

W. R. Fosdick excepts to the report of the master for that it does not set forth and allow his claim of $9,316.66, as under the evidence and law should have been done. And he prays the judgment of this court whether his claim ought not to be allowed.

792 *Harris Reynolds* excepts to the report of the masters for that it does not allow his claim, and he prays the judgment of this court whether his claim ought not be allowed to the full amount thereof, $4,000.

David Meyer excepts to the report because the said report only allows him $223, whereas under the evidence he should have been allowed $430. And he prays the judgment of court on his claim.

Each of the above claimants separately appeals from the decision of the masters, and prays the judgment of this court on their several claims.

CLAYPOOL, NEWCOMB & KETCHAM,
For Claimants.

792A And afterwards, to wit, at the November term of said court, on the 15th day of December, A. D. 1877, the following further proceedings in the above entitled cause were had, to wit:

Come now the Farmers' Loan and Trust Company, by R. E. Williams and C. W. Fairbanks, their solicitors, and file their exceptions to the report of the masters herein, in the words following, to wit:

In the matter of the intervening petition of various claimants on claims accrued within six months prior to the appointment of the receiver herein referred to, J. D. & L. Howland, Esqs., special masters—

And now come the Farmers' Loan and Trust Company, and Robert Turner and Charles W. Smith, and except to the report of said masters, and assign as cause of exception the following:

1. The said report is not in accordance with the order of reference.

2. Said report is not sustained by the evidence.

3. Said report is contrary to law.

4. These exceptors further except to that part of said report which finds the aggregate sum of $305,104.33 due the claimants
792B named under the head of "Schedule A," for the reasons following—

A. The same is excessive, contrary to, and unsupported by the evidence.

B. The same is contrary to law.

C. The same is not within the scope of the said order of reference.

5. And these exceptors further except to that part of said report which allows under said "Schedule A" the several persons, firms, partnerships, and corporations, therein severally and individually numbered and named, the several and separate amounts set opposite their respective names, for the following reasons, to wit:

A. The same are not covered by the order of reference.

B. The said respective amounts so allowed are excessive.

C. The same are contrary to and unsupported by evidence.

D. They are severally contrary to law.

And these exceptions are hereby made and intended to be made to the separate and several claims named and set forth in said

"Schedule A," and to the respective and several amounts therein allowed.

6. And these exceptors further except to that part of said report which allows claim No. 1,359, B. E. Smith, claimant, the sum
792c of $821.31, for the reasons following:

A. The same is unsupported by evidence.

B. It is contrary to law.

C. It is not covered by the said order of reference.

And these exceptions are made notwithstanding the fact that the exceptions hereinbefore set forth to the respective several and separate claims under "Schedule A" were intended to and did cover the said claim.

7. And these exceptors further except to that part of said report which finds due on claim No. 1,179, in favor of Second National Bank, Peoria, Ill., the sum of $12,000, for the reasons following:

A. That the same is not covered by, nor within the scope of the said order of reference.

B. That the said allowance is contrary to law.

And this exception is made notwithstanding the fact that the exceptions hereinbefore set forth to the respective several and separate claims under "Schedule A" were intended to and did cover the said claim, No. 1,179.

8. And these exceptors further except to that part of said report which allows on claim No. 1,368, in favor "Citizens' National Bank," Indianapolis, the sum of $5,455.54, for the reasons—

A. That the said claim is not embraced within the said or-
792D der of reference.

B. That the same is excessive.

C. That the same is contrary to the evidence.

D. That the same is contrary to law.

And these exceptions are made notwithstanding the fact that the exceptions hereinbefore set forth to the respective several claims under "schedule A" were intended to and did cover the said claim No. 1,368.

9. And these exceptors further except to that part of said report which allows on claim No. 196, in favor of Christian Waterman, the sum of $5,302, for the reasons—

A. That the said claim is not embraced in the said order of reference.

B. That the same is excessive.

C. That the same is contrary to law.

And these exceptions are made notwithstanding the fact that the exceptions hereinbefore set forth to the respective several and separate claims under "schedule A" was intended to and did cover the said claim No. 196.

10. And these exceptors further except to that part of said report which allows on claim No. 267, in favor of Edward H. Mayo, the sum of $7,057.71, for the reasons—

792E A. That the said claim is not embraced in the said order of reference.

B. That the same is excessive.

C. That the same is contrary to law.

And these exceptions are hereby made notwithstanding the fact that the exceptions hereinbefore set forth to the respective several and separate claims under "schedule A" were intended to and did cover the said claim No. 267.

11. And these exceptors further except to that part of said report which allows on claim No. 1,027, H. C. Adams, assignee, complaintant, the sum of $6,426.63, for the reasons—

A. That the said claim is not embraced within the said order of reference.

B. That the same is excessive.

C. That the same is contrary to law.

And these exceptions are made notwithstanding the fact that the exceptions hereinbefore set forth to the respective claims under "schedule A" were intended to and did cover the said claim No. 1,027.

12. And these exceptors further except to that part of said report which allows on claim No. 1,255. Indianapolis Rolling Mill claimant, the sum of $12,924.15, for the reasons—

A. That the said claim is excessive.

B. That the same is contrary to law.

792F And these exceptions are made notwithstanding the fact that the exceptions hereinbefore set forth to the respective claims under "schedule A" were intended to and did cover the said claim No. 1,255.

12. Said exceptors further except to that part of the report which allows on claim No. 1,261, Geo. Wooden, claimant, the sum of $6,-434.83, for the reasons—

A. The said claim is excessive.

B. The same is contrary to law.

And these exceptions are made notwithstanding the fact that the exceptions hereinbefore set forth to the claims under "schedule A." were intended to and did cover the said claim No. 1,261.

13. Said exceptors further except to that part of said report which allows on claim No. 265, A. Snedicker, claimant, the sum of $7,092 63, for the reasons:

A. That the said allowance is excessive.

B. That the same is contrary to law.

And these exceptions are made notwithstanding the fact that the exceptions hereinbefore set forth to the several claims under "schedule A" were intended to and did cover said claim No. 264.

14. Said exceptors further except to that part of said report which allows on claim 959, of G. Golden, claimant, the sum of $7,176.36, for the reasons:

792G A. That the said claim is excessive.

B. That the same is contrary to law.

And these exceptions are made notwithstanding the fact that the exceptions hereinbefore set forth to the several claims under "Schedule A" were intended to and did cover the said claim No. 959.

15. And these exceptors further except to that part of said report which finds the aggregate sum of $27,367.73 due certain claimants under the head of "Schedule B."

A. As the same is excessive, contrary to and unsupported by the evidence.

B. As the same is contrary to law.

C. As the same is not covered by the said order of reference.

16. And these exceptors further except to that part of said report which allows under said "Schedule B" the several persons, firms, partnerships, and corporations, therein severally and individually mentioned and named, the several and separate amounts set opposite their names, for the following reasons:

A. The same are not covered by the said order of reference.

B. The said respective amounts so allowed are excessive.

C. The same are unsupported by evidence.

D. They are severally contrary to law.

792H E. The masters should not have allowed more than the amount paid by said respective claimants.

F. The said masters should only have found due the said several claimants the amount shown to have been paid by them respectively, and no more.

G. The amount shown to have been paid by the said several claimants for the said claims in the said schedule, less the dividends paid thereon, is the amount the said masters should have allowed, if they were to allow anything.

And these exceptions are hereby made and intended to be made to the separate and several claims named and set forth in said "Schedule B," and to the respective and several amounts as herein allowed.

17. Said exceptors further except to that part of said report which allows on claim No. 180, Adams, assignee, &c., claimant, the sum of $6,466.20, for the reasons:

A. That the said allowance is excessive.

B. That the same is contrary to law.

And these exceptions are made notwithstanding the fact that the exceptions hereinbefore set forth to the several claims under "Schedule B" was intended to and did cover the said claim No. 180.

18. Said exceptors further except to that part of said re-
792I port which allows on claim No. 181, J. A. McKinzie, claimant, the sum of $6,792.53, for the reasons:

A. The said allowance is excessive.

B. The same is contrary to law.

And these exceptions are made notwithstanding the fact that the exceptions hereinbefore set forth to the several claims under "Schedule B" was intended to and did cover the said claim No. 181.

19. And the said exceptors further except to that part of said report which finds the aggregate sum of $4,022.69 due the six claimants therein named under "Schedule C" for the reasons:

A. The same is excessive.

B. The same is contrary to law.

C. The same is not covered by the order of reference.

20. Said exceptors further except to that part of said report which allows under said "Schedule C" the six claimants therein named, whose claims are numbered 175, 203, 270, 373, 1,007, 1,183, the specified amounts set opposite their respective names, for the reasons following:

A. They are excessive.

B. They are not covered by the order of reference.

C. They are wholly without evidence.

D. They are contrary to law.

And these exceptions are hereby made and intended to be
792J made to the separate and several claims named and set forth in said "schedule C," and to the respective and several amounts as therein set forth.

21. Said exceptors further except to that part of said report which allows under "schedule D" the claimants therein numbered 50, 333, 881, 950, 1357, and 1356, the several amounts set opposite the names of said claimants respectively, for reasons following, to wit:

A. They are not covered by the said order of reference.

B. They are wholly without evidence.

C. They are contrary to law.

And these exceptions are intended to be and are made to the several claims set forth in said "schedule D," and to the respective and several amounts as therein allowed.

22. Said exceptors further except to that part of said report which finds the several amounts opposite the names of the respective claimants under "schedule F," as the said amounts are excessive.

And these exceptors, for the above and foregoing reasons, except to each and every claim and allowance thereon by said mas-
792K ters reported, for the reasons hereinbefore set forth.

And for the above reasons and others that will be shown to your honor on the hearing hereof, the said report should be set aside and disallowed.

FARMERS' LOAN AND TRUST COMPANY ET AL.,
By R. E. WILLIAMS AND
C. W. FAIRBANKS,
J. D. CAMPBELL, *Counsel.*

793 And afterwards, to wit, at the November term of said court, on the 21st day of December, 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

And the court having heard and considered the petition of Deloss &

Root and Jerome B. Root to make proof of their claim at this time, it is ordered that they be allowed to make their proofs now before Livingston Howland, surviving master herein, in the same manner as if the same had been made on or before September 15th, 1877.

And afterwards, to wit, on said 21st day of December, 1877, before the honorable judge aforesaid, the following further proceedings in the above entitled cause were had, to wit:

Comes now the special master, Livingston Howland, and files his report upon the claim of C. C. Claflin herein, in the words following, to wit:

To the Honorable Court:

The undersigned commissioner, to whom was referred the various intervening claims for labor and supplies accruing six months immediately preceding the receivership, begs leave to report that he has examined, heard the proofs, and allowed the following claims filed after the time limited in the original order, by leave of court
794 specially obtained in each case:

No. 1. Deloss & Jerome B. Root, certificates dated Nov. 30, 1874.....	$52 20
No. 2. C. C. Claflin, certificate dated Nov. 30, 1874....	229 00
Total.....	$281 20

Respectfully submitted,
LIVINGSTON HOWLAND,
Comm'r.

INDIANAPOLIS, December 20, 1877.

And afterwards, to wit, at the November term of said court, on the 28th day of December, 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

This cause having come on to be heard on the petition of Michael Kinney filed herein, and the court having duly considered the same, it is ordered that the said Michael Kinney be allowed to file and prove his claim against the Indianapolis, Bloomington and Western Railway Company before the special master in chancery of this court, Livingston Howland, within thirty days from this date, the same as if said claim had been filed in accordance with the order of this court heretofore entered in said cause with reference to claims for labor and supplies.

795 And afterwards, to wit, at the November term of said court, on the 29th day of December, 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the Farmers' Loan and Trust Company by counsel and files its exceptions to the report of the master herein in the words following, to wit:

In the matter of the intervening petitions of Deloss and Jerome B. Root and C. C. Claflin, referred to L. Howland, commissioner.

Comes now the Farmers' Loan and Trust Company and excepts to the report of said commissioner upon the above named claims, and assigns as cause of such exceptions the following reasons:

1. That the said commissioner, in finding $52.20 due Deloss and Jerome B. Root, did so contrary to law.

2. The said allowance was excessive. And further, exceptor says said commissioner, in finding $281.20 due said C. C. Claflin, did so contrary to law.

3. Said finding was excessive.

And for the above and other reasons which will be submitted at the hearing hereof, said report should not be confirmed.

FARMERS' LOAN AND TRUST CO.,
By R. E. WILLIAMS.
C. W. FAIRBANKS, *Counsel.*

796 And afterwards, to wit, at the November term of said court, on the 31st day of December, 1877, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

To the Honorable Court:

Comes now the special master, Livingston Howland, and files his report upon the claim of Michael Kinney herein, in the words following, to wit:

The undersigned, to whom the intervening petitions of various claimants for labor and supplies during six months preceding the appointment of receiver were referred, begs leave to report for allowance the following claim, filed by permission of the court after the time limited for filing such claims, to wit, Sept. 15, 1877:

No. 3.—Michael Kinney.
Certificates dated November 30, 1874; face, less 10 per cent paid $71 65

Respectfully submitted,
LIVINGSTON HOWLAND, *Com'r.*

797 And afterwards, to wit, at the November term, 1877, of said court, on the 8th day of January, A. D. 1878, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the special master, Livingston Howland, Esq., and files his report, together with the accounts and evidence taken before him, in the matter of the claim of the Paris and Danville Railway Company, and said report is in the words following, to wit:

Intervening Petition of the Paris and Danville Railroad Company, by James A. Eads, Receiver.

To the Honorable Court:

The undersigned, one of the special masters to whom the above entitled matter was referred for hearing and report, begs leave to submit his report as follows:

The 4th paragraph of the order of reference relates to this petition, and reads as follows:

"To ascertain and report to the court the evidence, together with their findings thereon, relative to the issues joined upon the intervening petition of the Paris and Danville Railroad Company, by James A. Eads, its receiver, filed herein."

The "issue joined" in the petition aforesaid embraces three separate claims.

First. A claim against the railway company for a right of way and depot grounds near Danville, Illinois, which accrued of
798 course before the receivership and more than six months before the appointment of the receiver, to wit, at the organization of the company.

Second. A claim for coal furnished under the contract during the six months next preceding the appointment of the receiver.

Third. A claim against Wright, receiver, for coal supplied him as receiver of the company since he took charge and has been operating the road.

The evidence in relation to the first claim shows that the land claimed for was taken by the D. U. B. & P. Railroad Company by conveyance from Short & Co., and afterwards came into possession of the I. B. & W. Company on the consolidation by which that company was organized, and the claim therefor afterwards passed by assignment to the petitioner.

No consideration was ever paid for this land except in the execution and carrying out of the contract for the opening of the mines and furnishing of coal therefrom by the respective companies, the contract having been renewed by the I. B. & W. Company after its organization. The land is now held and occupied, so far as the right of way is concerned, by the company or the receiver representing its property. The title is also held for the tract designated as depot grounds, being seven acres, but it has never been used by
799 the company for the purposes for which it was acquired, the project for a depot having been abandoned. The right of way is indispensable of course to the operation of the road, and its reasonable value should be paid to the petitioner. If the seven acres is retained as the property of the company its reasonable value should also be paid, and if the purchase is not recognized as of utility to the road its re-conveyance to petitioner should be ordered, free from all claims of the creditors of the company. The evidence as to the values of this land is contradictory and unsatisfactory, and I

have based my findings as to values upon such average estimates as seemed to me most likely to approximate the true value.

I find due the petitioner in the first claim as follows:

Right of way:	
23 acres, at $500 per acre	$11,500
2 " (town lots) $1,600 per acre	3,200
Total	$14,700
Depot grounds (if the title is retained.)	
7 acres at $366 per acre	2,562
	$17,262

Making a total on first claim for right of way and depot grounds of seventeen thousand two hundred and sixty-two dollars.

On the claim for coal it is conceded that the court has already
800 held the contract under which it was furnished to be void, and that the amount to be awarded petitioner for coal actually furnished is to be ascertained on the basis of a *quantum meruit* under the evidence adduced.

On the basis of the contract price per ton, to wit, $1.80, the books of the petitioner and also those of the defendant or respondent show that there was due the petitioner for all coal furnished during the six months preceding December 1st, 1874, after deducting all credit during that period, the sum of $18,522.98.

To this amount the petitioner claims there should be added $3,426.91 for interest, which under the *rate* indicated by the court as to six months' claims, cannot be allowed.

The petitioner also claims an additional amount to this balance on account of a credit of $4,799.90 on account of freight earned by the I. B. & W., and which were accrued under an agreement between the two roads that they should be credited upon certain notes given by the I. B. & W. Company in 1874, and not upon the coal account. The testimony of petitioner's book-keeper, however, shows the above to be the true balance after deducting credits he was ordered to make on the account.

There appears, therefore, to have been an application by the petitioner of these freights to the credit of this account, and it is too late to raise the question now.

801 On the other hand the respondent contests the allowance of the full amount of the above balance because it is on the basis of the contract price, which is more than should be given in the *quantum meruit*, and further, that the amount awarded upon the *quantum meruit* should not be determined from the evidence as to market value of the coal furnished, but upon the actual cost of its production.

I do not think the last position tenable, and I am further of opinion that the preponderance of the evidence shows the coal during the six months to be reasonably worth the contract price of $1.80.

I therefore allow the petitioner for coal furnished during the six months next preceding the receivership the sum of eighteen thousand five hundred and twenty-two 98-100 dollars ($18,522.98.)

As to the third claim for coal furnished the receiver the evidence shows that there has been so furnished him the amount of 59,430½ tons, which has been charged as petitioner contends under a provisional settlement under a provisional contract at the rate of $1.50 per ton.

The evidence on this point seems to be that by an arrangement between the parties coal was to be supplied the receiver at $1.50, pending the settlement of the question of the validity of the
802 contract, and that if the court held the contract binding then the additional thirty cents per ton should be paid. The court has held the original contract void, and in my judgment the petitioner must now be satisfied with the price fixed by the parties in the event of the old contract not being sustained by the court.

There would be then chargeable in receiver's account

59,430½ tons at $1.50	$89,145.75
Is acknowledged paid	$74,173.37
Balance	$14,972.38

The receiver has, however, credited himself with the sum of $14,-972.38, just the above balance, for freight earned by the road since he came in charge. This charge for freights is not disputed by petitioner, but is resisted as a credit against coal furnished receiver on the ground that before the receivership the road, through its officers, contracted to carry these freights, and that they should be credited on certain notes of the I. B. & W. Company given a long time before and held by petitioner; and that this contract was binding upon the receiver when he hauled the freights. That his entering them as a credit on the coal account was without the petitioner's knowledge or consent, and that the same should not be allowed against this claim on the receiver for coal.

The evidence shows such an agreement between the two roads before receivership and the hauling of the iron by the road after
803 the receiver took charge. It does not show that knowledge of the agreement was brought to the receiver before he hauled the freight. For the freights so hauled by Wright as receiver, to the above amount credit was entered on his general account on the books of the petitioner's company, but Short, the president, says he knew nothing of such application and has always protested against it. I think this course of dealing and account keeping between the parties amount to a mutual application of these freights to the credit of this coal account against the receiver, and that whatever the original understanding may have been with the company officers before the appointment of the receiver, it is too late after the credit has been entered and recognized by both parties, and payments made and received on this basis, to dispute it as a credit on the account at this late day.

I therefore reject and disallow the claim of petitioner for coal furnished the receiver since his appointment, being for the amount of the alleged improper credit on that account of $14,972.38.

Recapitulation.

Allowed:		
	Right of way	$14,700.00
	Depot grounds (if retained)	2,562.00
	Total	$17,262.00
804	Coal for 6 months before receiver, balance due at $1.80 per ton	18,522.98
	Total	$35,784.98
Rejected:		
	On account of freights credited before receivership	$4,799.90
	After receivership	14,972.38
	Interest claimed on 6 mo. coal	3,496.21
		$23,268.49
	Claim 30 cts. additional on coal furnished rec'r.	17,829.15
		$41,097.64

Schedule of evidence heard and reported with this report:

1. Depositions of Short and others taken at Danville, Illinois, March 21 & 22, 1877, marked "Vol. I."

2. Depositions of Elisha Canber and others taken at Indianapolis on 11 & 12 September, 1877, with exhibits, marked "Vol. II."

3. Depositions of John C. Short taken before James H. Philips, a notary public, March 15, 1877, marked "A."

4. Stipulation as to certain facts signed December 6, '77, marked "B."

All of which is respectfully submitted.

LIVINGSTON HOWLAND,
Special Master hearing case.

805 And afterwards, to wit, on the 15th day of January, 1878, the Farmers' Loan and Trust Company and Geo. B. Wright, receiver, filed in said court their exceptions to the report of Livingston Howland, special master herein, in the words following, to wit:

In the matter of the intervening petition of the Paris & Danville Railroad Company, referred to the Hon. Livingston Howland, special master.

Now comes the Farmers' Loan and Trust Company and Geo. B. Wright, receiver, and except to the said report of said master filed

herein, January 8, 1878, and for causes of exception assign the following:

1. Said exceptors except to so much of said report as allows to petitioner for right of way or depot grounds any sum whatever, as the said allowance is contrary to law.

2. If petitioner is entitled to anything for right of way or depot grounds, the amount allowed is excessive.

3. Excepts to so much of said report as allows anything to petitioner for coal furnished within six months before the receiver took possession, as the said allowance is contrary to law.

4. If any allowance for such coal should be made the amount allowed by said master was excessive.

806 And these exceptors say that said master should have allowed respondent the sum of $5,036 claimed as a credit for the use of the switch engine from June 1, 1874, to March 1, 1875.

For the above and other reasons that will be shown upon the argument hereof, the said exceptor prays that the said report be set aside and in all things disallowed.

And in duty bound, &c.

FARMERS' LOAN & TRUST COMPANY.
GEO. B. WRIGHT, *Receiver.*
By R. E. WILLIAMS &
C. W. FAIRBANKS, *Solicitors.*

807 And afterwards, to wit, on the 5th day of February, 1878, the Paris and Danville Railroad Company by counsel filed in this court their exceptions to the report of the master herein, in the words following, to wit:

To L. Howland, special master, to whom was referred by special order of said Circuit Court the case of the Paris and Danville Railroad Company against the Indianapolis, Bloomington and Western Railway Company and its receiver.

And now comes the Paris and Danville Railroad Company by James A. Eads, its receiver, and excepts to so much of the report of said special master in said cause as rejects the claim of the Paris and Danville Railroad Company growing out of the hauling of rails by the I. B. & W. Rw'y Company and its receiver for the Paris & Danville Railroad Company, and the applications of freights due the I. B. & W. Railway Company from the Paris and Danville Railroad Company upon certain notes held by the Paris and Danville *& Danville* Railroad Company against the I. B. & W. Railway Co., and for cause of such exceptions says that said rails were hauled upon special contract that the freights due thereon should be so applied.

808 Also so much of said report as rejects the claim for interest on the $18,522.98 allowed in said report for supplies, &c., and for cause of such exceptions says that said claim for interest was erroneously rejected.

And also objects to so much of said report as rejects the claim of $1.80 for coal supplied by the Paris and Danville Railroad Co. and

its receiver, to the receiver of the I. B. & W. Railway Co., all of which is respectfully submitted and said special master asked to reconsider and allow said claims.

GALLAGHER & HENRY,
Att'ys for Petitioner.

And afterwards, towit, at the November term of said court, on the 19th day of February, 1878, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now Nicholas McCarty, by counsel, and files his petition herein, in the words following, to wit:

(Petition not on file.)

And thereupon said petition is referred to William P. Fishback, master.

And afterwards, to wit, at the November term of said court, on the 23d day of February, 1878, before the Honorable Walter Q.
809 Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the master and files his report herein, together with the evidence taken before him in the matter of the claim of N. McCarty, and said report is in the words following, to wit:

Intervening Petition of Nicholas McCarty.

To the Honorable Court:

The undersigned master, to whom was referred (by special order of said court) the above entitled claim, reports that the same was presented to him, as such master, on the 22d day of Feb'y, 1878, Mr. Fairbanks appearing for the respondents, and the said master reports the same allowed, as follows:

Nicholas McCarty (holding labor certificates as collateral security for a note executed to him by Isaac Smithson, Sept. 6th, 1875, at four months, with 10 per cent. int. after maturity, said certificates assigned to him by said Smithson) is entitled to the face of said certificates, less 10 per cent. paid, being in the aggregate $228.25.

Respectfully submitted.

LIVINGSTON HOWLAND, *Master.*

810 And afterwards, to wit, at the November term of said court, on the 27th day of February, 1878, before the Honorable Walter Q. Gresham, one of the judges as aforesaid, the following further proceedings in the above entitled cause were had, to wit:

* * * Comes now at the same time the Farmers' Loan and Trust Company, Albert Turner and C. W. Smith, by counsel, and file their exception to the report of the special master herein on the claim of Nicholas McCarty, in the words following, to wit:

In re Petition of Nicholas Mc Carty.

Come now the Farmers' Loan & Trust Company, and Robert Turner & C. W. Smith, and except to the report of the special master allowing the said petitioner $228.25, and assign as cause of exception—

1. Said finding is contrary to law.
2. It is excessive.

And acceptors pray that said report be not confirmed.

FARMERS' LOAN & TRUST CO. ET AL,
By C. W. FAIRBANKS, *Counsel.*

[Folio 811 erased in original copy.]

812 And afterwards, to wit, at the November term of said court, on the 19th day of March, 1878, before the Honorable Thomas Drummond and Honorable Walter Q. Gresham, judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now Matthew D. Watson, by his counsel, and files his pepetition and claim herein in the words following, to wit:

To the Honorable Circuit ———, in session:

Matthew D. Watson would respectfully represent unto the court that he is a citizen of Chicago, in the State of Illinois; that he is at this time the owner and holder and entitled to collect for his personal use, benefit and behalf each and every of the promissory notes hereinafter more fully described; that the Union Rolling Mill Company, a corporation organized and doing business under the constitution and laws of the State of , on and after the 30th day of April, A. D. 1873, continuing from that date during the months of May, August, September and October of the same year, sold and delivered to the said Indianapolis, Bloomington and Western Railway Company, steel rails for their said road and track as per account thereof herewith filed and made part of this his petition, and for greater certainty marked Exhibit "A," and he says that the whole amount of said rails so sold and delivered by said rolling
813 mill company to said railway company, as set forth in said account thereof, is and was the sum of one hundred and twenty thousand eight hundred and eighty-nine dollars and ninety-six cents ($120,889.96), for which said railway company from time to time made and delivered to said rolling mill company its certain promissory notes, as appears from said Exhibit "A;" that the first page of said account, as shown by its face, shows the amount of the sales and delivery of said steel rails to said railway company by said rolling mill company, and the amount of the original indebtedness of the former to the latter company; and the whole exhibit shows such settlement as have from time been made, and notes given therefor, and for balance thereof; and he says that heretofore, to wit, on the

day of 187 , the said Union Rolling Mill Company, for value received, transferred and delivered to the petitioner, Matthew D. Watson, who now holds and owns the same as and for his own use and benefit, and in his own right and as his own property, nine promissory notes given to said Union Rolling Mill Company by said rolling mill company in settlement of and for the balance of said indebtedness, or part thereof; which said several promissory
814 notes are made part hereof, and copies thereof are here set out and marked on the margin of each as Exhibit "B," "C," "D," "E," "F," "G," "H," "I," "J" and "K," and are as follows:

"B."

"Indianapolis, Bloomington and Western R'y Co.

$11,000.00. INDIANAPOLIS, IND., August 22d, 1874.

Ninety days after date, for value received, the Indianapolis, Bloomington and Western Railway Co., by their president of the Union Rolling Mill Company, eleven thousand dollars at St. Nicholas National Bank, New York city.

(Signed.) INDIANAPOLIS, BLOOMINGTON AND
No. 036. WESTERN RAILWAY COMPANY,
By B. E. SMITH, *President.*"

"C."

"Indianapolis, Bloomington and Western R'y Co.

$13,500.00. INDIANAPOLIS, IND., August 27th, 1874.

Ninety days after date, for value received, the Indianapolis, Bloomington and Western Railway Company, by their president, duly authorized, promise to pay to the order of Union Rolling Mill Company thirteen thousand five hundred dollars, at St. Nicholas National Bank, New York city.

No. 044. INDIANAPOLIS, BLOOMINGTON AND
WESTERN RAILWAY COMPANY,
By B. E. SMITH, *President.*"

"D."

815 "Indianapolis, Bloomington and Western R'y Co.

$1,875.00. INDIANAPOLIS, IND., Oct. 3d, 1874.

Forty-five days after date, for value received, the Indianapolis, Bloomington and Western Railway Co., by their president, duly authorized, promise to pay to the order of Union Rolling Mill Company eighteen hundred and seventy-five dollars, at company's office, Indianapolis, Ind.

No. 083. INDIANAPOLIS, BLOOMINGTON AND
WESTERN RAILWAY COMPANY,
By B. W. SMITH, *President.*"

"E."

"Indianapolis, Bloomington and Western R'y Co.

$1,875.00. INDIANAPOLIS, IND., Oct. 3d, 1874.

Sixty days after date, for value received, the Indianapolis, Bloomington and Western Railway Company, by their president, duly authorized, promise to pay to the order of Union Rolling Mill Company eighteen hundred and seventy-five dollars, at company's office, Indianapolis, Ind.

No. 084. INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY,
By B. W. SMITH, *President.*"

"F."

"Indianapolis, Bloomington and Western R'y Co.

$1,875.00. INDIANAPOLIS, IND., Oct. 3d, 1874.

816 Seventy-five days after date, for value received, the Indianapolis, Bloomington and Western Railway Company, by their president, duly authorized, promise to pay to the order of Union Rolling Mill Company eighteen hundred and seventy-five dollars, at company's office, Indianapolis, Ind.

No. 085. INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY,
By B. W. SMITH, *President.*"

"G."

"Indianapolis, Bloomington and Western R'y Co.

$9,218.31. INDIANAPOLIS, IND., Oct. 24th, 1874.

Sixty days after date, for value received, the Indianapolis, Bloomington and Western Railway Co., by their president, duly authorized, promise to pay to the order of Union Rolling Mill Co. ninety-two hundred and eighteen dollars and thirty-one cents, at company's office, Indianapolis, Ind.

No. 086. INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY,
By B. W. SMITH, *President.*"

"H."

"Indianapolis, Bloomington and Western R'y Co.

$10,000.00. INDIANAPOLIS, IND., Oct. 24th, 1874.

817 Ninety days after date, for value received, the Indianapolis, Bloomington and Western Railway Company, by their president, duly authorized, promise to pay to the order of Union

Rolling Mill Company ten thousand dollars, at the St. Nicholas National Bank.

No. 087. INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY,
By B. E. SMITH, *President.*"

"I."

"Indianapolis, Bloomington and Western R'y Co.

$10,000.00. INDIANAPOLIS, IND., Nov. 7th, 1874.

Ninety days after date, for valve received, the Indianapolis, Bloomington and Western Railway Company, by the president, duly authorized, promise to pay to *to* the order of Union Rolling Mill Company ten thousand dollars, at the St. Nicholas National Bank, New York city.

No. 0110. INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY,
By B. E. SMITH, *President.*"

"J."

"Indianapolis, Bloomington and Western R'y Co.

$1,875.00. INDIANAPOLIS, IND., Oct. 3d, 1874.

Thirty days after date, for value received, the Indianapolis, Bloomington and Western Railway Company, by their president, duly authorized, promises to pay to the order of Union Rolling Mill Company eighteen hundred and seventy-five dollars, at the company's office, Indianapolis, Ind.

No. 082. INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY,
By B. E. SMITH, *President.*"

818 And he avers that said promissory notes and each of them still remain wholly unpaid, owing & due to him as the owner & holder thereof; and that there is now due thereon of principal and interest the sum of seventy-one thousand seven hundred & sixty dollars and eighty-three cents, if he has corrected calculated the same, and as he charges and verily believes; but the same can be readily calculated and ascertained, if he has not correctly made said calculation.

Your petitioner further represents that said notes were each & every of them given for & in consideration of said steel rails, or of balances due for the same, or of & by way of renewals of other promissory notes given for said steel rails, or for balances due therein. And he says that said rails so sold and delivered by said Union Rolling Mill Company to the said Indianapolis, Bloomington & Western Railway Company were used by said railway company in the construction & completion of its said road & upon the same; and

that he is informed, and verily believes, and upon his information and belief so charges, that said rails have ever since been & still are upon the said track of said road, and still in use and good
819 condition, and, well as he is informed & believes, remain & be fit for use for a long time to come, to wit, from *seven* to *nine* years hereafter; and that the said rails so bought by said railway company & in use by said railway company, and to be in use hereafter by the same as above alleged; and so have contributed and are now contributing, and will still for a long time yet to come contribute to the earnings of said railway company & to the profit of operating & running the same, in equal ratio to the ratio to the other capital and labor employed in & about running the same.

And he says that he is the *bona-fide* owner & holder of said several promissory notes, and entitled to recover the same. He further says, that after he acquired the said ownership of said several promissory notes, & they were delivered to him as aforesaid, he was informed, & verily believed, that the said Circuit Court of the United States made a rule & order to the effect that all claims & demands for rails or other material & supplies for the completion & use of said road, sold & delivered to the said railway company at any time more than six years prior to the date when the said court assumed con-
820 trol of said road & the business thereof, should not be allowed as claims against said road in the hand of a receiver; and only such as have been furnished within said six months next preceding the decree & order of the court assuming control of said road, & appointing a receiver for the same, would be allowed or ordered to be paid. And he says that he did not understand, & was not informed until recently, to wit, within the seven or eight weeks last past, that the said court would still hear argument in support of such claims, or would probably allow them in whole or in part, and direct the payment of the same so far as allowed.

And he further says that he is now informed and believes that the court has recently heard argument, & taken, & now has under advisement & consideration the question whether claims like his, upon the aforesaid, arising for rails, supplies & other materials for the construction, stocking or completion of said road, more than six months before the decree & order of the court assuming control of said road and appointing said receiver ought in equity & and good conscience to be allowed & paid by said receiver or not; and he says that he is remediless at common law, and as he is advised & believes only to be relieved in equity.

821 He therefore prays that he may be permitted to file his said notes as a claim against said road in the hand of said receiver, and that the same may be referred to the master for proof of touching the consideration and ownership thereof, and that the same may be allowed & ordered to be paid, or such part thereof as may by the court be regarded, in view of the situation of said road and its other creditors, just & equitable; & as in duty bound he will ever pray, &c.

MATTHEW D. WATSON,
By GORDON, LAMB & SHEPHARD, *His Solicitor.*

THE STATE OF INDIANA, } ss.
Marion County, }

Jonathan W. Gordon swears that he is one of the solicitors of Matthew D. Watson, the petitioner in the above foregoing petition, and that he is informed and verily believes that the matters stated in said petition are true in substance and fact. And further says not.

J. H. GORDON.

Subscribed and sworn to before me, a notary public, this the 12th day of March, 1878.

C. F. ROBBINS,
[SEAL.] *Notary Public.*

And thereupon said petition and claim is referred to William P. Fishback, master.

822 *Exhibit "A."*

Indianapolis, Bloomington and Western Ry. Co., in ac. with the Union Rolling Mill Co.

April 30, 73.	For 21 cars $235\frac{1500}{2240}$ tons steel rails @ $125	$29,458 70		
May 10, 73.	For 5 mo's. int. on same, 7 per cent	876 40	30,335 10	
	CONTRA, CR.			
May 10, 73.	By 1 note, 4 mo. Apl. 30, 73.	15,081 63		
	" " 6 " " "	15,253 47		30,335 10
May 20, 73.	For 16 cars $176\frac{1330}{2240}$ tons steel rails @ $125	22,074 22		
Aug. 8, 73.	For 5 mo's. int. on same 7 per cent	656 70	22,730 92	
	CONTRA, CR.			
Aug. 8, 73.	By 1 note 4 mo's, May 20, 73.	11,365 46		
"	" " 6 " " "	11,365 46		22,730 93
Aug. 15, 73.	For 17 cars $189\frac{590}{2240}$ tons steel rails @ $125	23,657 92		
" 23.	For 5 mo's int. on same, 7 per cent	703 82	24,361 74	
	CONTRA, CR.			
Aug. 23, 73.	By 1 note 4 mo's, Aug. 15, 1873	12,180 87		
	By 1 note 6 mo's, Aug. 15, 1873	12,180 87		24,361 74
Aug. 25, 73.	For 21 cars $269\frac{640}{2240}$ tons steel rails @ $125	22,660 71		
30.	For 5 mo's int. on same, 7 per cent	852 65	29,513 36	
	CONTRA, CR.			
Aug. 30, 73.	By 1 note 4 mo's, Aug. 10, 1873	14,756 68		
823	By 1 note 6 mo's, Aug. 10, 1873	14,756 68		29,513 36
Sept. 30, 73.	For 16 cars $179\frac{1160}{2240}$ tons steel rails @ $125	21,314 73		
	CONTRA, CR.			
Oct. 31, 73.	For 5 mo's int. on same, 7 per cent	634 11		21,948 84
Oct. 31, 73.	By 1 note 4 mo's, Oct 18, 1873	10,974 42		
	By 1 note 6 mo's, Oct. 18, 1873	10,974 42		21,948 84
			$128,889 96	$128,889 96

The above is the original indebtedness and the settlements for same.

Indianapolis, Bloomington and Western Ry. Co., in ac. with the Union Rolling Mill Co.

May 9, 74.	For note due May 6-9, 74, and renewed		$10,000
"	" " " "		9,218 31
22.	" " May 22, taken up		12,495 54
27	" " " 27, "		15,137 89
July 3.	" " July 3, "		7,500
24.	" " " 24, "		10,974 42
Aug. 2.	" " Aug. 2, "		7,500
"	" " " "		12,000
" 7.	" " " 7, "		10,000
"	" " " "		9,218 31
23.	" " " 23, "		11,000
27.	" " " 27, "		13,500
Oct. 4.	" " Oct. 4, "		7,500
24.	" " " 24, "		9,218 31
25.	" " " 25, "		10,000
Nov. 2.	" " Nov. 2, "		12,000
8.	" " " 8, "		1,000

Int. paid on all these extended notes by drawing upon the I., B. & W. Ry. at sight.

824

CONTRA. CR.

May 9, '74.	By note 90 days, May 6, '74			10,000 00
" " " "	90 " " 6, '74			9,218 31
22 " " "	90 " " 22, '74			11,000 00
" " " "	30 " " 22, '74			1,495 54
27 " " "	90 " " 27, '74	13,500 00		
" " " "	30 " " 27, '74	1,637 89		15,137 89
July 3 " " "	90 " July 3, '74			7,500 00
24 " " "	90 " July 24, '74	10,000 00		
"	Cash	974 42		10,974 42
Aug. 2 " "	4 notes—1 30 days,			
	1 45 "			
	1 60 "			
	1 75 " $1875 each			7,500 00
Aug. 2.	By 1 note 90 days, Aug. 1, '74			12,000 00
" 1 "	90 " " 7, '74			10,000 00
7 " 1 "	75 " " 7, '74			9,218 31
23	By 1 note, 90 days, Aug. 22, '74, due Nov. 23, '74			1,100 00
27	By 1 note 90 days, Aug. 27, '74, due Nov. 28, '74			13,500 00
Oct. 4.	By 4 notes, 1 30 days, $1,875, due Nov. 5, '74—			
	1 45 days, $1,875, due Nov. 20, '74.			
	1 60 days, $1,875, due Dec. 5, '74.			
	1 75 days, $1,875, due Dec. 20, '74			7,500 00
Oct. 24.	By 1 note, 60 days, Oct. 24, '74, due Dec. 27, '74			9,218 31
25	By 1 note, 90 days, Oct. 24, '74, due Jan. 26, '75			10,000 00
Nov. 2.	By 1 note, 90 days, Nov. 2, '74, due Feb. 3, '75			12,000 00
8	By 1 note, 90 days, Nov. 8, '74, due Feb. 3, '75			10,000 00
			$177,262 78	$177,262 78

825 Indianapolis, Bloomington & Western Railway Co., in account with Union Rolling Mill Co.

Nov. 29, '73.	For note due Nov. 22, '73, taken up & renewed		11,365 46	
	" Protest fees on same		1 31	
	" Int. on $8,565, 90 days, @ 10 per ct.		230 58	
				11,597 35
Jan. 13, '74.	" Note due Dec. 18, '73, taken up & renewed		12,180 87	
	" Note due Dec. 23, '73, taken up & renewed		14,756 68	
	" Protest fees		2 80	
				26,940 35
Feb. 5, '74.	" 44 days int. on $14,758.08	@ 10 p. c.		830 03
	" 49 " " " 12,182.87			
	" 93 " " " 18,737.45			
Jan. 22, '74.	" Note due Jan. 17, '74, taken up and renewed		15,253 47	
	" Protest fees		1 31	
Feb. 18,	" " " note due Feb. 18, '74		1 44	
23.	" " " " " Feb. 23, '74		1 37	
28.	" Note due Feb. 23, '74, taken up and renewed		8,597 35	
Mch. 14.	" Note due Feb. 21, '74, taken up and renewed		10,974 42	
	" Protest fees		1 25	
	" Int. on 3 notes, past due to Mch. 30.		461 11	
	" " new notes to replace them		8 70	
	" " $1,161.72, 25 days		8 05	
				36,169 77
Feb. 18, '74.	" Note due Feb. 18, '74, taken up and renewed		12,180 87	
	" 93 days int. on same, @ 10 per ct.		314 67	
				12,495 54
23.	" Note due Feb. 23, taken up and renewed		14,756 68	
	" 90 days int. on same, @ 10 per ct.		381 21	
				15,137 89
Apl. 27, '74	" Note due April 21, '74, taken up and renewed			10,974 42
				$114,145 35

CONTRA, CR.

Nov. 29, 73.	By cash	3,000 00	
	" Note, 90 days, Nov. 22, '73	8,597 35	
			11,597 35
Jan. 13, '74.	By Cash	2,996 25	
Feb. 5,	" Sight draft, less coll	5,555 82	
	" 1 note, 90 days, Feb. 5, '74	10,000 00	
826	" 1 " 90 " " 5, '74	9,218 31	
			27,770 38
Feb. 18.	" 1 " 90 " " 18, '74		12,495 54
23.	" 1 " 90 " " 23, '74		15,137 89
Apl. 27.	" 1 " 3 mo., Apl. 21, '74		10,974 42
"	" 1 " 30 days, Mch. 30, '74	2,000 00	
	" 1 " 40 " "	2,000 00	
	" 1 " 50 " "	2,000 00	
	" 1 " 60 " "	2,000 00	
	" 1 " 3 mo. "	7,500 00	
	" 1 " 4 " "	7,500 00	
	" 1 " 4 " "	12,000 00	
"	" Cash in full	1,169 77	36,169 77
			114,145 35

Indianapolis, Bloomington and Western Railway Co.
To Union Rolling Mill Co., DR.

Nov. 23, '74.	For note.	90 days,	Aug. 23, '74, not paid.			11,000 00
28, '74.	"	" 90 "	" 27, '74,	"		13,500 00
5, '74.	"	" 30 "	Oct. 3, '74,	"		1,875 00
20, '74.	"	" 45 "	"			1,875 00
Dec. 5, '74.	"	" 60 "	"			1,875 00
20, '74.	"	" 75 "	"			1,875 00
27, '74.	"	" 60 "	Oct. 24, '74			9,218 31
Jan. 21, '75.	"	" 90 "	"			10,000 00
Feb. 3, '75.	"	" 90 "	Nov. 2, '74*.....			12,000 00
8, '75.	"	" 90 "	" 7, '74.....			10,000 00
						$73,218 31

*This note endorsed by B. E. Smith & C. R. Griggs.

827 The above notes held by the Union Rolling Mill Co., $73,218.31 and int. on same from dates they were due, is the full amount of our claim against the I., B. & W. Ry. Co.

J. B. STUBBS, *Sec'y.*

CHICAGO, Dec. 13, 1877.

828 And afterwards, to wit, at the November term of said court, in recess thereof, on the 2d day of April, 1878, the following further proceedings in the above entitled cause were had, to wit:

Comes now the master and files his report on petition of James Frank, in the words following, to wit:

Petition of James Frank.

To the Honorable Judge of said Court:

The undersigned master, to whom was referred the above entitled petition, begs leave to report that the petitioner, by Porter & Porter, and the respondents, by Mr. Fairbanks, appeared before him this day, and submitted the evidence which is attached to the petition, and said master finds the petitioner entitled to the sum of forty-six dollars and thirty-five cents ($46.35) as the *bona fide* holder of said certificate.

All of which is respectfully submitted.

LIVINGSTON HOWLAND,
Master.

Indianapolis, March 5th, 1878.

At the same time comes also the Farmers' Loan and Trust Company, C. W. Smith and Robert Turner, by C. W. Fairbanks, their solicitor, and file the exceptions to report of master in the words following, to wit:

829 Comes now the Farmers' Loan and Trust Company and C. W. Smith and Robert Turner and except to the report of

Special Master Livingston Howland herein, to the allowance of $43.35 in favor of James Frank, and assign as cause of exception:

1. That said allowance is contrary to law.

Wherefore petitioners ask that said report be not confirmed.

FARMERS' LOAN AND TRUST CO.
And C. W. SMITH & ROBERT TURNER,
By C. W. FAIRBANKS.

April 2, 1878.

And afterwards, to wit, at the November term of said court, on the 18th day of April, 1878, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now August Mai and files his claim herein in the words following, to wit:

(Claim not on file.)

And said claim is referred to Livingston Howland, Esq.

Comes now David D. Long and files his claim herein in the words following, to wit:

(Claim not on file.)

And said claim is referred to Livingston Howland, Esq.

830 And afterwards, to wit, at the November term of said court, in recess thereof, on the 4th day of April, 1878, the following further proceedings in the above entitled cause were had, to wit:

Comes now Livingston Howland, Esq., the master to whom was referred the claims of August Mai and David D. Long, and files his report thereon in the words following, to wit:

Intervening claims of August Mai and D. Long, assignees of Richard H. Culter, in bankruptcy.

To the Honorable Court:

The undersigned special master, to whom the above claims were referred, by permission of court filed since the general report, respectfully reports them for allowance as follows:

August Mai, labor certificates	$66 60
David D. Long, assignee Richard H. Culter, in labor certificates	107 95
	$174 55

Being for labor performed within six months next preceding the receivership.

Respectfully submitted,

LIVINGSTON HOWLAND,
S. Master.

831 And afterwards, to wit, at the November term of said court on the 29th day of April, 1878, before the Honorable Walter Q. Gresham, one of the judges as aforesaid, the fol-

lowing further proceedings in the above entitled cause were had, to wit:

Come now Hilderbrand and King, by counsel, and file their petition herein in the words following, to wit:

(Petition being not on file.)

And the court being sufficiently advised in the premises, it is ordered that said petition be and the same is hereby referred to Livingston Howland, Esq.

And afterwards, to wit, at the November term of said court, in recess thereof, on the 1st day of May, 1878, the following further proceedings in the above entitled cause were had, to wit:

Comes now the master, Livingston Howland, and files his report on the petition of Hilderbrand and King in the words following to wit:

Petition of Hilderbrand and King.

To the Honorable Court:

The undersigned master, to whom the above entitled matter, filed by special permission of the court was referred, respectfully reports that he finds the petitioners, Hilderbrand and King, entitled to be allowed on the certificate attached to their petition the sum
832 of seventy-two dollars and 45-100 ($72.45.)

Respectfully submitted,

LIVINGSTON HOWLAND,
Master.

At the same time comes the Farmers' Loan and Trust Company, by C. W. Fairbanks, Esq., its solicitor, and files its exceptions to the master's report in the words following, to wit:

Exceptions to report of Master in re. petition Hilderbrand and King.

Comes now the Farmers' Loan and Trust Company and excepts to the report of the master, and assigns as cause of exception the following:

1. That said finding is contrary to law.

And exceptor will ever pray, &c.

FARMERS' LOAN AND TRUST CO.,
By C. W. FAIRBANKS.

And afterwards, to wit, at the May term of said court, on the 8th day of May, A. D. 1878, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitle cause were had, to wit:

833 In the Circuit Court of the United States for the District of Indiana, May term, 1878.

WEDNESDAY MORNING, May 8th, A. D. 1878.

Before Honorable Walter Q. Gresham, judge.

4427 MALCOLM C. TURNER and others v. THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY and others. } Original Bill.

THE FARMERS' LOAN AND TRUST COMPANY v. THE INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY COMPANY and others. } Cross Bill.

And now on this 8th day of May, A. D. 1878, it being the May term, 1878, of said court, the parties hereto having appeared by their respective solicitors, on motion of the Farmers' Loan and Trust Company, complainant in said cross-bill, by R. E. Williams, its solicitor, it is, by way of further directions for the execution of the decree heretofore entered herein, of date July 24, 1877, and recorded under date of August 7, 1877, considered by the court, and ordered,
834 adjudged and decreed that the said original decree be, and the same is hereby, amended and modified as follows:

1. The 13th article thereof so as to read as follows:

13th. That said sale be made subject to judgments for right of way, and to all legal and valid claims therefor, and also subject to all sums legally due for taxes, which are a lien prior to said mortgages; and also subject to the provisions of certain contracts of lease and purchase heretofore made with Oliver Adams for five hundred box freight cars by said receiver; and also subject to that portion of such other claims and sums of money as are now under consideration by, and as shall be hereafter allowed by this court, or the Circuit Court of the United States for the Southern District of Illinois, in the causes pending therein, and affirmed by the Supreme Court of the United States on appeal, should an appeal be taken, in preference to liens of the hereinbefore mentioned mortgages or deeds of trust for debts due by said railroad company for work and labor done and supplies and material furnished during a period not exceeding the six months next preceding the first day of December, 1874, in the operation of that portion of the said railroad hereby directed to be sold, without prejudice to the right of the Farmers' Loan and Trust Company to object to the same, and to appeal from any order or orders which may be hereafter made by the court in relation thereto; which claims, judgments and taxes and car contracts, and
835 such back pay, labor and supply claims as shall be finally adjudged against the property herein directed to be sold, after an appeal so taken, shall be assumed by the purchaser or purchasers, in addition to the amount of the purchase-money so bid, and in all cases where judgments obtained against the receiver are appealed

from to the Supreme Court of the United States, and supersedeas granted, the sale of said property hereby directed to be sold shall be subject to the final determination upon said appeal or appeals.

And the payment of the amount of any claims so allowed, or any judgment against the receiver so obtained, shall not be required to be made at or prior to the time of the delivery of the deed, but the said sale shall be made subject to, and the purchaser or purchasers of said property shall agree to pay off so much of the said claims or sums of money as shall be finally allowed in the progress of this cause, on or after such appeal, and the same shall be paid and discharged by said purchaser or purchasers within six months after the entry of an order of this court, upon a mandate of the Supreme Court concerning matters so appealed from being filed in this court, and the said deed shall be delivered without payment of said claims or sums of money, or any part thereof, upon the purchaser so conditionally agreeing to pay so much and no more of such claims and sums of money as may finally be allowed on such appeal, and
836 it shall be competent for the court to enforce hereafter, by proper order or decree herein, or to be added to the foot of this decree, any of the provisions or conditions of this thirteenth article of this decree.

2. That the 12th article be amended and modified so as to provide that the publications therein directed shall be made once each week for four consecutive weeks.

3. That the second subdivision of article nineteen be modified and amended so as to read as follows:

12. Out of the surplus, if any, to the said complainant, the Farmers' Loan and Trust Company, for compensation for services in this behalf, as trustee, the sum of five thousand dollars, and in addition thereto the sum of six thousand and seventy-four dollars for its incidental expenses and disbursements in the carrying on and management of this suit; and that an allowance be, and is hereby, made of the further sum of thirty-four thousand dollars to the said Farmers' Loan and Trust Company, as counsel and solicitors' fees herein, the sum of six thousand dollars, and to the firm of Brown & Campbell, of counsel herein, the sum of six thousand dollars, and the balance to *to* be by it distributed to and amongst the other counsel and solicitors.

837 Here follows the modification of extension decree, filed at Springfield May 11th, 1878:

Circuit Court of the United States, Southern District of Illinois.

Order entered at Springfield May 8, 1878.

And on this 8th day of May, A. D. 1878, it being at the January term, 1878, of said court, the parties hereto having appeared by their respective solicitors on the motion of Charles W. Smith and Robert Turner, complainants in said last above entitled cross-bill, by Henry

Crawford and McDonald and Butler, their solicitors, by way of further direction for the execution of the decree heretofore entered herein, of the date of September 3, 1877; and in further adjustment of the equities then reserved it is considered by the court and
838 further ordered, adjudged, and decreed that the said original decree be and the same is hereby fully re-affirmed, except as to the following amendments, in which respect alone the said decree is modified, viz.:

It is further ordered that said sale be made subject to judgments for right of way on such extension railroad, and to all legal and valid claims therefor, and also to all sums legally due for taxes which are a lien on such extension railroad prior to said mortgage, and also subject to that portion of such other claims and sums of money as are now under consideration by and as shall be hereafter allowed by this court, or the Circuit Court of the United States for the District of Indiana, in the causes pending therein and affirmed by the Supreme Court of the United States on appeal, should an appeal be taken, in preference to liens of the hereinbefore mentioned mortgages or deeds of trust for debts due by said railway company for work and labor done and supplies and material furnished during a period not exceeding the six months next preceding the first day of December, 1874, in the operation of that portion of the said railroad commonly called the "Extension" and hereby directed to be sold, without prejudice to the rights of the said Charles W. Smith and Robert Turner to object to the same and to appeal from any order or orders which may be hereafter made by the court in rela-
839 tion thereto; which claims, judgments, and taxes and car contracts, and such back pay, labor, and supply claims as shall by finally adjudged against the property herein directed to be sold, after any appeal so taken, shall be assumed by the purchaser or purchasers in addition to the amount of the purchase-money so bid, and in all cases where judgments obtained against the receiver are appealed from to the Supreme Court of the United States and *supersedeas* granted, the sale of said property hereby directed to be sold shall be subject to the final determination upon said appeal or appeals.

And the payment of any claims so allowed or of any judgments against the receiver so obtained shall not be required to be made at or prior to the time of the delivery of the deed, but the said sale shall be made subject to, and the purchaser or purchasers of said property shall agree to pay off so much of the said claims or sums of money as shall be finally allowed in the progress of this cause on or after such appeal, and the same shall be paid and discharged by said purchaser or purchasers within six months after the entry of an order of this court upon a mandate of the Supreme Court concerning matters so appealed from being filed in this court, and the said deed shall be delivered without payment of said claims
840 or sums of money, or any part thereof, upon the purchaser so conditionally agreeing to pay so much and no more of

such claims and sums of money as may finally be allowed upon such appeal.

And it shall be competent for the court to enforce hereinafter by proper order or decree herein, or to be added to the foot of this decree, any of the conditions or provisions herein.

And that the last clause of the fourth article of said original decree be and the same is hereby amended and modified so as to provide that the publication therein directed shall be made once each week for four consecutive weeks.

841 And afterwards, to wit, at the May term of said court, in recess thereof, on the 24th day of July, 1878, the following further proceedings in the above entitled cause were had, to wit:

"The following order was this day received from the Honorable Samuel H. Treat, judge of the District Court for the southern district of Illinois:

John D. Howland, master in chancery of the United States Circuit Court for the district of Indiana having died, and William P. Fishback, Esq., having been appointed master in chancery of said court in his stead, it is hereby

Ordered, That said Fishback act in conjunction with John A. Jones, Esq., master in chancery of this court, in making the sale ordered by the decree in this cause, and in all respects as the said Howland was ordered to act by the decree.

842 And afterwards, to wit, on the 8th day of October, 1878, notice and proofs of service were filed in the office of the clerk of said court, in the words following, to wit:

In the Circuit Court of the United States for the Southern District of Illinois.

MALCOLM C. TURNER and others *against* THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILROAD COMPANY.	Original Bill in Chancery.
THE FARMERS' LOAN AND TRUST COMPANY *against* THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILROAD COMPANY.	Cross Bill.

You will please to take notice that upon the record papers and proceedings in this cause and upon the advertisement of sale of the mortgaged property we shall move his honor Mr. Justice Harlan, at the Circuit Court room in the city of Chicago, on Thursday, the 26th day of September, 1878, at ten o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an order by way of further direction in the execution of decree heretofore entered in the cause in the following respects:

First. That the said master be directed to sell the mort-
843 gaged property after appraisement and with reference to and subject to the law or laws of the States of Illinois and Indiana conferring rights of redemption from mortgage sales.

Second. That executing the said decree the masters shall be so directed that after such sale they shall forthwith make a report thereof to the court, and after the confirmation thereof by the court they shall forthwith execute and deliver a deed to the purchaser of the said mortgaged premises upon their complying with the conditions and terms of said sale, which deed shall convey to the said purchasers a valid title in fee-simple to the mortgaged property so sold, such title to become absolute after the expiration of the time allowed by the law or laws of said States of Illinois and Indiana for redemption from mortgage sales, and that such sales shall, after the expiration of the period of redemption aforesaid, be valid and effectual forever, provided no redemption, according to law, shall be duly made of said mortgaged property.

Third. That the said masters be directed to withdraw the advertisement of the sale of said mortgaged property and insert in lieu thereof an advertisement of the sale of the said railroad and other mortgaged property in accordance with the terms of the said decree as modified by such directions, by way of execution of the
844 decree aforesaid, as shall *as shall* upon the hearing of this application be given by the court.

Fourth. And for such other and furthur directions to the said masters and for such other and furthur relief in the premises as to the court may seem just and the nature of the case may require.

Yours, &c.,

WILLIAMS, BURR AND CAPEN,
Sol'rs of Complainants.

[Folios 845, 846 and 847 erased in original copy.]

848 And afterwards, to wit, at the May term of said court, on the 8th day of October, 1878, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

"The following order was this day received from the Honorable John M. Harlan, associate justice:"

Motion by the Farmers' Loan and Trust Company for Further Instruction to the Masters to Execute the Decree.

This cause came on to be heard before the circuit justice and circuit judge of the 7th circuit, and having been argued by counsel and the court being now fully advised—

Orders and decrees that the said masters proceed to execute the decree in accordance with the terms thereof, and sell the property as ordered by the decree without regard to the appraisement, or redemption laws of the State of Indiana, or the redemption laws of the State of Illinois.

849 And afterwards, to wit, at the May term of said court, on the 23d day of October, 1878, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the receiver and files his petition for an order requiring certain payment on Rogers Locomotive Works to be paid into court, in the words following, to wit:

850 In the matter of the petition of the receiver for order requiring purchasers at sale to pay into court the amount due the Rogers Locomotive and Machine Works on a certain judgement.

George B. Wright, receiver in the above entitled cause by virtue of a decretal order entered therein, respectfully shows: That he has reported to this honorable court from time to time the progress of the suit of the Rogers Locomotive and Machine Works for the possession of, damages to, and rental for 28 locomotives in possession of said defendant railway company at the date of your petitioner appointment as receiver, and which said locomotives were so continued in the custody and control of your receiver down to January 11th, 1876, the date of judgment, in favor of said locomotive and machine works. The last report of your petitioner as to the progress of said litigation, was filed herein with his first annual report to this court to the January term, 1877, thereof. Since the date of said report on, to wit, November 24th, 1877, the master to whom was referred the question of the ascertainment of the damages to said property during its retention and use by your petitioner down to the date of judgment as aforesaid, reported $100,848.00 as the amount

851 of rental and interest thereon due said locomotive and machine works, and $66,770.00 as the amount and interest thereon required to make good the proper repairs to said engines, the aggregate amount of such allowance being $167,618.00. By such finding said master disallowed one claim of said locomotive and machine works of $40,000, and the finding upon the matter of rental and repairs as reported was largely below the amounts claimed by said locomotive works. But believing that the said finding as reported by said master was excessive, your petitioner filed thereto the proper exceptions, and upon argument thereon before the United States Circuit Court for the District of Indiana, the said finding was reduced to $148,036.00, and the sum of $3,478.79 allowed as interest thereon from the date of said master's report, the total amount of the judgment as finally rendered by said court being $151,514.79. To such finding of the court your petitioner duly excepted, and the said case was taken by writ of error to the Supreme Court of the United States, where the same is now pending and undetermined.

Petitioner shows further that counsel for the said cross-com-

852 plainant, the Farmers' Loan and Trust Company, filed in said suit between the Rogers Locomotive and Machine Works and your petitioner a brief, holding that whatever damages might be found by said court in the determination of said cause should be

and constitute a personal liability and obligation against your petitioner.

Petitioner further shows that the main line of said railway company, defendant, is to be sold under and in pursuance of the decree of this honorable court on, to wit, October 30th, 1878; that a large proportion of the said judgment in favor of said Rogers Locomotive and Machine Works is for rental and damages to engines used in the service of the said main line of roads, but just what proportion is chargeable against said main line your petitioner is unable to state. Petitioner further shows that whatever damages may have resulted to said property while the same was in the use and service of petitioners, did so result in the ordinary and legitimate use thereof in the transportation business of said roads. Your petitioner has deemed it proper, therefore, that he should call the attention of this court to the fact of said judgment rendered in a cause foreign to the one wherein he is receiver, and to submit in view of the premises
853 whether the purchasers at the sale of said property should not be required to pay into court in cash a sum sufficient to satisfy said judgment and to protect your petitioner from any and all liability on said judgment should the same be finally affirmed.

Respectfully submitted,

GEORGE B. WRIGHT,
Receiver.

[Folios 854 to 883, both inclusive, and half of folio 884, were erased in original copy.]

884 And afterwards, to wit, at the November term of said court, on the 1st day of November, 1878, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now James A. Jones, Esq., master in chancery of the United States Circuit Court for the southern district of Illinois, and William P. Fishback, master in chancery of this court, and file their report of the sale of the road in the words following, to wit:

885 In the United States Circuit Court, District of Indiana.

MALCOLM C. TURNER et al.
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY. } Ch'y 4427.

To the Honorable Court:

The undersigned, the masters appointed by said court and charged with the duty of the making the sale herein, respectfully report: That pursuant to the terms of said decree they gave notice that they would sell the said property as described in the decree and upon the terms and conditions in the same set forth and prescribed, at the south door of the court-house in the city of Bloomington, in the county of Mc-

Lean and State of Illinois, at ten o'clock in the forenoon of Wednesday, October 30, 1878, by publishing the same in the Evening Post, a daily newspaper of general circulation printed and published in the city of New York, in the State of New York; also, by publishing the same in the Indianapolis Journal, a daily newspaper of general circulation printed and published in the city of Indianapolis, in the State of Indiana; also, by publishing the same in the Illinois State Register, a daily newspaper of general circulation
886 printed and published in the city of Springfield, in the State of Illinois; that said publications of notice in said newspapers were made once each week for four consecutive weeks in each of said newspapers, the first insertion of which said publications in each of said newspapers was thirty days before the said 30th day of October, A. D. 1878, said publications of notice being in all respects according to the provisions of said decree of sale and the modifications thereof made by the said court May 8, 1878.

And that after having given said notices, and pursuant thereto and to said decree, the undersigned attended in person at the city of Bloomington, in said county of McLean and State of Illinois, and at the south door of the court-house, at 10 o'clock in the forenoon of Wednesday, October 30, 1878, in the presence of a number of persons attending said sale and having the opportunity to bid thereat, and did then and there at public outcry openly offer and expose to sale, upon the terms and provisions of said decree, the said property known as the main line of the Indianapolis, Bloomington and Western Railroad, with its franchises, rights, and privileges as described in the printed paper which was read by the masters at the time and in the hearing of the persons so assembled, to wit: * * * *

887 And the undersigned, the said masters, did thereupon then and there offer and expose to sale as aforesaid, all of the said property in said notice and decree described and ordered to be sold, and every part and parcel thereof as an entirety, as commanded by said decree; and thereupon Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasing committee in trust for certain bondholders, under the trusts expressed in a certain agreement dated December 20, 1875, and a supplement thereto dated July 25, 1878, copies of which are hereto attached and made part of this report, did bid for the same the sum of one million dollars; and no one bidding more, and that being the highest and best bid received for the same, said property was thereupon, at the hour of 10.20 o'clock in the forenoon, then and there by said masters openly struck off and sold to them for the price aforesaid.

And the said purchasers did then and there deposit with the undersigned $50,000 as security for their said bid, as required by said decree, and did also then and there pay in cash the additional sum of $50,000 of the purchase-money.

The said masters submit their doings herein for the consideration and further order of the court.

October 30, 1878.

J. A. JONES, *M. C.*
W. P. FISHBACK, *Mast'r.*

To the holders of Danville, Urbana, Bloomington and Pe-
888 kin first mortgage bonds, and Indianapolis, Bloomington and Western first consolidated and second mortgage bonds:

The undersigned committees appointed by bondholders of the respective classes, after careful investigation, unanimously recommend the following plan and agreement for your approval and action as an equitable adjustment of the interests involved.

Suits for foreclosure of the three named mortgages are pending in the courts of Indiana and Illinois, and concerted and prompt action is necessary for the protection of bondholders.

The plan submitted is substantially as follows:

Plan.

It is proposed that agents—three in number—shall be authorized to purchase the railroad, with its appurtenances and equipments, at any sale or sales thereof, and that after such purchase a corporation shall be organized, and the railroad and property vested therein; and that stock shall be created and securities made and disposed of in the following manner:

889

Capital stock	$2,500,000
First mortgage bonds	3,500,000
Second mortgage bonds	1,500,000
Scrip certificates	830,000
Total	$8,330,000

Both first and second mortgage bonds to become due October 1st, 1906, bearing interest from October 1st, 1876, for two years at four per cent., for the next two years at five per cent., and thereafter at seven per cent., payable April 1st and October 1st, both interest and principal in gold.

A sinking fund of one per cent. per annum, to commence in 1882, shall be provided in each mortgage out of the net earnings.

The above stock and securities to be distributed as follows:

To the Danville, Urbana, Bloomington and Pekin bondholders, acceding to this plan and agreement for the principal of their present bonds, an equal amount of the new first mortgage bonds, for the accrued interest to October 1st, 1876, and the difference between four and five per cent. for four years, and the present rate of interest, say 27½ per cent. with premium on gold, amounting in all to say 30 per cent., or $300 in stock, for each $1,000 bond.

Total bonds	$2,000,000
Total stock	600,000

To the Indianapolis, Bloomington and Western first con-
890 solidated mortgage bondholders, acceding to this plan and agreement, for the principal of their present bonds:

Fifty per cent., or $500 in new first mortgage bonds.

Fifty per cent., or $500 in new second mortgage bonds, for each

bond of $1,000, and for the unpaid interest, $300 in stock, the same as the Danville, Urbana, Bloomington and Pekin bonds.

Total first mortgage bonds	$1,500,000
Total second mortgage bonds	1,500,000
Total stock	900,000

To the Indianapolis, Bloomington and Western second mortgage bondholders, acceding to this plan and agreement, for the principal of their present bonds:

66⅔ per cent., or $666.67 in stock for each $1,000 bond.

33⅓ per cent., or $333.33 in scrip for each $1,000 bond; for the accrued interest to October 1st, 1876, say 22 per cent. or $220 in scrip.

Total stock	$1,000,000
Total scrip	830,000

The stock shall be entitled to a dividend not exceeding eight (8) per cent. per annum, after the interest and sinking fund upon the bonds is provided for, and until the scrip is convertible into stock.

The scrip shall receive a dividend not exceeding seven (7) per cent. per annum, after the full interest and sinking fund upon the bonds, and a dividend of eight (8) per cent. per annum upon
891 the stock has been provided for, and shall be convertible into stock at par after it shall have received one dividend of seven per cent

After the scrip is converted into stock, then the stock is to receive all surplus earnings of the road applicable to dividends.

General Provisions.

1st. The time for the performance of the conditions of this plan shall be fixed by the purchasing agents of the subscribing bondholders.

2d. The said purchasing agents may act in all cases by a majority of their number, and shall decide all questions which may arise in respect to the construction or effect of any of the provisions of this plan, which decision, in every such case, shall be final and conclusive.

And the said agents are hereby invested with full power and authority to execute the provisions of this plan, to supply any and every case which is unprovided for by its terms, and generally to do all acts and things necessary and proper in their judgment to carry out its provisions and objects, and shall be entitled to a reasonable compensation for their services.

NEW YORK, December 20, 1875.

AUSTIN CORBIN, 61 Broadway, N. Y.,
JACOB B. JEWETT, Poughkeepsie, N. Y.,
JOHN P. ADRIANCE, Poughkeepsie, N. Y.,
Committee of Danville, Urbana, Bloomington and Pekin Bondholders.

892 G. E. TAINTOR, 20 Broad street, N. Y.,
C. P. WILLIAMS, Pres. Albany Ex. Bank, Albany, N. Y.,
T. J. VAN WYCK, 109 Duane street, N. Y.,
Committee of Indianapolis, Bloomington and Western First Mortgage Bondholders.
JOSIAH B. BLOSSOM, 76 Wall street, N. Y.,
THOS. DENNY, 39 Wall street, N. Y.,
JOHN P. ADRIANCE, Poughkeepsie, N. Y.,
Committee of Indianapolis, Bloomington and Western Second Mortgage Bondholders.

893 *Agreement*

Of the Danville, Urbana, Bloomington and Pekin first mortgage bondholders, the Indianapolis, Bloomington and Western consolidated first mortgage bondholders, and Indianapolis, Bloomington and Western convertible second mortgage bondholders.

We, the undersigned, who are respectively holders of bonds secured by the above named mortgages on the main line of the Indianapolis, Bloomington and Western Railway Company, extending from Indianapolis, Indiana, to Pekin, Illinois, in the amounts specified opposite to our names respectively, hereunto subscribed, in consideration of the advantages which will result to us respectively from concert of action, and of other good causes and considerations, do hereby each for himself, and not the one for the other, or either of the others, agree with each other and the committee hereinafter mentioned, as follows:

1st. That we will act together and in concert in the endeavor to bring about a sale of the property described in the said mortgages or deeds of trust, and that no separate action in relation thereto shall be taken by either of us, it being understood that whatever may be done under this agreement shall, subject to the stipulations herein contained, be for the purpose of reorganizing the road upon the above plan.

And that in order to facilitate our proceedings under this agreement, Austin Corbin, Giles E. Taintor and Josiah B. Blos-
894 som be, and *the* are hereby, appointed a committee in our behalf, and they and their substitutes, selected as hereinafter provided, or a majority of them, are hereby authorized and empowered to take such proceedings and give such directions, and do such acts under the said mortgages or deeds of trust, or otherwise as they may consider judicious and proper in order to bring about a sale of the property described in the said mortgages. That in case a vacancy should at any time occur in the said committee by death, resignation or otherwise, such vacancy may be filled by the other members of the said committee by the selection and appointment of a substitute to fill the same out of the same class of bondholders; and that such substitute shall have and exercise all the power and authority under this agreement previously possessed by the person in whose behalf he shall have been selected and appointed, and to the same extent

and effect as if he were named as one of the said committee herein.

2d. That upon a sale of the mortgaged premises under the said mortgages or deeds of trust, the said committee shall be, and they are hereby, authorized and empowered, in their name or in the name of either of them as trustees under this agreement, to purchase the said Indianapolis, Bloomington and Western main line, extending from Indianapolis, Indiana, to Pekin, Illinois, and its franchises, ap-
895 purtenances and equipments, at such price as they may consider judicious, not, however, exceeding the aggregate amount of the principal and interest at the time being due or unpaid upon all of the bonds secured by the said mortgages or deeds of trust and the costs of the foreclosure. And that in order that the said bonds held by us respectively and the coupons belonging thereto may be had by the said committee for the purpose of being used by them in or about the completion of such purchase, or (in case other persons than themselves should become the purchasers of the said mortgaged premises) for the purpose of realizing in our behalf respectively, our respective portions of the proceeds of such sale to which as holders of the said bonds we may be entitled, the said bonds and coupons shall, within sixty days from the date of this agreement, be deposited by us respectively in the Central Trust Company of New York, to be held by it until the time of such sale, and then to be delivered to the said committee upon their request if they should require the same for either of the aforesaid purposes. It being understood that at the time of such deposit, transferable certificates for such bonds and coupons, showing our right and title thereto, and that they are de-
posited under and subject to this agreement, shall be delivered
896 to us respectively; and that one of such certificates shall be given for each of said bonds or for any number of such bonds held by us, as we may respectively require. And we do further agree that we will not hereafter, during the continuance of this agreement, sell or dispose of the said bonds or coupons held by us respectively, or any or either of them except subject to this agreement; provided, however, that if by reason of an arrangement or settlement, or for any reason, the said committee should at any time consider it inexpedient to enforce the security of the said mortgages or deeds of trust, the said bonds shall, upon their order and the surrender of the said certificates therefor, be withdrawn from such deposit and returned to the parties respectively holding such certificates.

3d. That we hereby accept and consent to the terms, conditions and provisions of the above plan, and do hereby agree that we will assign and deliver the bonds by us subscribed, and the certificates issued for the same by the said Central Trust Company, to the committee or to such person or persons as may be designated for that purpose by the committee, at such time or times and at such place or places as may be by them appointed; and will accept in lieu thereof the new first and second mortgage bonds, stock and scrip certificates

to be made by the corporation hereinafter created, as in the aforesaid plan mentioned.

897 4th. That each subscriber hereto shall become interested in the purchase, if made under this agreement, in the exact proportion which his bonds so subscribed, with the coupons belonging thereto, bear to the whole number of bonds, with the coupons belonging thereto; and that said subscribers shall not become liable for or interested in any such bid or bids, or for or in any such purchase or purchases, in any manner or to any extent beyond the distributive share of the proceeds of such sale to which he may be entitled as holder of the bonds by him hereto subscribed.

And it is further agreed that each person subscribing hereto, and holding the bonds so subscribed, may also become entitled to an interest in that portion of any purchase made in pursuance hereof, for which holders of bonds may not subscribe, to the extent of the proportion which the bonds of such person bear to the whole number subscribed, on furnishing to the said committee, at least thirty days before the time appointed for the sale of the said road, funds to defray the costs of such interest; provided that every such privilege shall be subject to the option of said committee in their discretion at any time or times to allow any such non-subscribing bondholder subsequently to become a party hereto, on such terms as to

898 them shall seem expedient; and it is further agreed that in case any party hereto shall decline or omit to accept the benefit of this provision or to comply with the same, or shall fail to fulfill his obligations under this agreement, the said committee may make such disposition of the interest in the said purchase to which he would otherwise become entitled as to them may seem just and expedient; and in all cases every person acquiring an interest in the said purchase in place of any non-subscribing bondholders or of any defaulting party hereto, shall be entitled to stand, as to the new securities to be issued, in the place of the party to whose position under this agreement he shall have succeeded.

5th. That if the said committee should purchase the said mortgaged premises as hereinbefore authorized, the same may be conveyed to them, and they may take possession of the same; and the said committee shall thereupon, and without any unnecessary delay, proceed to organize a new company, and upon such organization being completed, shall convey all of said property so purchased as aforesaid to said new company, upon the execution and delivery by said company to said committee of the securities mentioned in the foregoing plan, such securities to be by said committee delivered to the persons entitled thereto, upon their complying with the

899 terms and conditions of said plan.

6th. That for the purpose of meeting the expenses of the said committee in carrying into effect the provisions of this agreement (apart from the expenses of a foreclosure of the said mortgages or deeds of trust, and of the subsequent disposition of the mortgaged premises, if they shall be purchased by the said commit-

tee,) each of the subscribers hereto shall, when required to do so, pay into the hands of the said committee the sum of five dollars for each of the said bonds held by him, and that the aggregate amount of such contributions shall constitute a fund for the payment of such expenses. And that (except as aforesaid) no expenses beyond the amount of said fund shall be incurred by the said committee, unless they shall be authorized to do so at a general meeting of the parties interested under this agreement, in which case such further expenses may be incurred to the extent that shall be thus allowed; but no person who shall not attend such meeting, and vote therefor, shall be required, except at his option, to contribute to his proportion of the same.

7th. No subscriber hereto shall be deemed to have any rights whatever under this agreement, unless he shall deposit his bonds with the said trust company, besides subscribing to this
900 agreement. It is further understood and agreed that the said committee are not to be under any obligation, express or implied, to any bondholder who shall not subscribe to this agreement and deposit his bonds with the said company; nor shall any bondholder not so signing and depositing his bonds have any rights or claims whatsoever, under or by virtue of this agreement, but that all of the benefits and advantages of the same shall be confined to the persons who are subscribers hereto, and who shall deposit their bonds with the said company.

The said committee may act in all cases by a majority of their number; and they are declared to possess and are hereby invested with all the legal and equitable powers, authorities and rights of purchasers with respect to the purchase which may be made in pursuance of these presents, and shall have full power and authority to convey all the estate, right and title acquired by such purchase or purchases to the corporation which may be formed as aforesaid, for the purpose of holding or operating the said railroad upon such terms and conditions and with such restrictions and agreements as to the said committee shall seem expedient; and generally to do all acts and things for the formation of the said corporation, and for investing them when so found with the title to the railroad and other property acquired by such purchase or purchases, and all acts
901 and things for the carrying out of the objects of this agreement.

And it is further agreed that in case any party hereto shall fail or omit to comply with each and every of the conditions and provisions of this agreement, the rights of such party, by virtue hereof, may, at the option of the said committee, be declared to be forfeited, and thereupon all interests and rights of the said party under and by virtue of this agreement shall absolutely cease.

That all copies of this agreement which shall be subscribed by any of the holders of the said bonds and delivered to the said committee shall have the like effect as if their signatures were hereto subscribed.

In witness whereof we have hereunto set our hands this 20th day of December, one thousand eight hundred and seventy-five.

		Amount of Bonds.		
Subscriber.	Address.	Dan., Urb., Bloom. & Pekin 1st m'tg'e.	Ind., Bloom. & West'n 1st cons. m'tg'e.	Ind., Bloom. & West'n 2d m'tg'e.

902 Memorandum of an agreement amendatory to an agreement heretofore executed, made the 25th day of July, A. D. 1878, between the several subscribers hereto, who are holders to the amounts set opposite their respective signatures of the bonds of the Danville, Urbana, Bloomington and Pekin Railroad Company, and of the first consolidated mortgage bonds of the Indianapolis, Bloomington and Western Railway Company, which bonds are issued under and secured by two several mortgages or deeds of trust to the Farmers' Loan and Trust Company, trustee, and of the second mortgage convertible bonds of the Indianapolis, Bloomington and Western Railway Company, which bonds are issued under and secured by a mortgage or deed of trust to William Dennison and Benjamin E. Smith, as trustees, and which subscribers execute this instrument in their character of such bondholders, parties of the first part hereto, and hereinafter known as "the bondholders," and Austin Corbin, Giles E. Tainter and Josiah B. Blossom, parties of the second part hereto, and hereinafter known as "the purchasing committee."

Whereas, by an agreement dated December 20th, 1875, made between the said bondholders, the said purchasing committee was appointed to obtain a foreclosure and sale of, and to purchase the said railroad property, and to organize a new company for the purpose of operating the said railroad;

903 And whereas a decree of sale has been obtained, and a modification of said agreement has become necessary by reason of the lapse of time and certain decisions of the courts affecting the interests of thebondholders:

Now, this agreement further witnesseth, that the parties subscribing the same in consideration of the premises herein, and for other valuable considerations, do hereby mutually agree, each for himself, and not for the others, as follows:

1. Upon the completion of the organization of the proposed new corporation or corporations, the purchasing committee shall convey and transfer the property purchased to such new corporation or corporations, upon receiving from it or them settlement of the price thereof as follows:

1. New first mortgage bonds of the new company or companies to the amount of four million five hundred thousand dollars.

Of these bonds one million dollars shall be preferred bonds, and shall by the terms of the first mortgage or deed of trust hereinafter

described have preference over and be a lien prior to any other bonds of the same issue secured by the said mortgage or deeds of trust; said preferred bonds shall be in sums of $1,000, $500 and $100 each, respectively; the principal shall be payable in the city of New
904 York, on the first day of January, 1879, at the rate of seven per centum per annum, such interest to be payable semi-annually on the first days of January and July. The principal and interest payable in lawful money of the United States of America.

The remaining new first mortgage bonds, other than the said preferred bonds, shall be in sums of $1,000 and $500 each, respectively, and the principal shall be payable in the city of New York at the end of thirty years from their date, and the same shall bear interest for the first three years, commencing within six months from the confirmation of said sale, at the rate of three per centum per annum, for the two years next subsequent at the rate of four per centum per annum, for three years next subsequent at five per centum per annum, and thereafter at the rate of six per centum per annum, such interest to be payable in the city of New York semi-annually on the first days of April and October. The principal and interest payable in lawful money of the United States.

All of such new first mortgage bonds shall be secured by a first mortgage of the new company or companies, to such incorporated company in the city of New York, or such suitable persons as trustees, as shall be designated for the purpose by the purchasing committee, and such new mortgage shall be made to secure said first mortgage bonds, to an amount not exceeding four million five
905 hundred thousand dollars, and shall contain a provision providing for a sinking fund of fifteen thousand dollars per annum, to commence on the first day of January, 1884, and be used for the redemption of said preferred bonds; and the said mortgage shall cover as a first lien all the railroad and property, both real and personal, now known as the main line, and ordered to be sold under the said decree of sale herein, and all other property subsequently acquired appurtenant thereto.

2. New second mortgage bonds of the new company or companies to the extent of $1,500,000.

These second mortgage bonds shall be in sums of $1,000 and $500 each, and the principal shall be payable in the city of New York at the end of thirty years from their date, and shall bear interest for the first three years, commencing within six months from the confirmation of said sale, at the rate of three per centum per annum, for the three years next subsequent at the rate of four per centum, for the three years next subsequent at five per centum per annum, and thereafter at six per centum per annum, payable in the city of New York semi-annually on the first days of April and October.
906 The principal and interest payable in lawful money of the United States. But no foreclosure shall be had for default on the coupons of these bonds before January 1, 1884.

All of such new second mortgage bonds shall be secured by a second

mortgage of the new company or companies, to such incorporated company in the city of New York, or such suitable persons as trustees, as shall be designated for the purpose by the said purchasing committee; and such new mortgage shall be made to secure bonds for an aggregate amount not exceeding fifteen hundred thousand dollars, and shall cover as a second lien the said railroad and property purchased at the said sale, subject, however, to the prior lien of the said new first mortgage.

3. Income bonds of the new company or companies to the aggregate amount of $1,500,000.

These bonds shall be in sums of $1,000, $500, and $100, and the principal shall be payable in the city of New York at the end of forty years from their date, and shall bear interest at the rate of six per centum per annum when earned, commencing within one year from the date of the confirmation of said sale, payable semi-annually on the first days of January and July, whenever the income of the new company in any one year will permit the payment of the same in whole or in part; and the said income bonds shall be convertible into stock. These bonds, together with all the other bonds above described, shall be clothed, if found practicable under State law, with voting power, in the proportion of one vote for every one hundred dollars of bonds.

907

4. Fully paid common capital stock of the new company or companies to the extent of thirty-three thousand three hundred shares of one hundred dollars each.

II. The bonds, stock, and certificates to be received by the purchasing committee from the new company or companies in payment for the said property are to be distributed as follows:

The preferred bonds shall be distributed among "the bondholders," in return for their subscriptions, dollar for dollar, in their due proportion, and the proceeds of such subscriptions, together with the balance of such preferred bonds, may be used by the purchasing committee in the settlement of receiver's debts, duly acknowledged, of taxes due and to become due on said railroad, of legal expenses for foreclosure and cost of reorganization, upon judgments obtained upon claims against the receiver for locomotives and car rental, and such other judgments the payment of which is imposed upon the purchaser by the decree of sale, and of claims for right of way upon the road-bed of said railroad, and in settlement of the dividends payable to non-subscribing bondholders for their proportion of net proceeds of sale; and if any of such bonds shall remain in the hands of the committee on the 1st day of October, 1881, the said remainder of such preferred bonds shall be cancelled by the trustee of said mortgage, and the said cancelled bonds shall be filed with said trustee as vouchers; *provided* however, that upon the written assent of a majority in amount of the new first mortgage bondholders, the said surplus of preferred bonds, or any portion thereof, may be placed in the treasury of the new company, for the

908

necessary equipment, betterment, and protection of said road, and for the promotion of its interest.

The new first mortgage bonds, other than the said preferred bonds, are to be distributed as is provided for in the original agreement, by giving to each bondholder an amount of such bonds equal to the par value of the principal of his Danville, Urbana, Bloomington and Pekin Railroad Company mortgage bonds, and an amount equal to fifty per centum of the principal of his Indianapolis, Bloomington and Western Railway Company first consolidated mortgage bonds deposited and used under said agreement.

909 The new second mortgage bonds are likewise to be distributed by giving to each bondholder an amount of such bonds equal to fifty per centum of the principal of his Indianapolis, Bloomington and Western Railway Company first consolidated mortgage bonds deposited and used under said agreement.

The new income bonds are to be distributed by giving to each subscribing holder of Danville and first mortgage Indianapolis, Bloomington and Western bonds an amount equal to the difference in rate and date of interest indicated by this supplemental agreement, which is estimated to be at rate of three hundred dollars per bond of one thousand dollars.

In the distribution of the new bonds as aforesaid, and in the absence of bonds of one hundred dollars each, sums of less than five hundred dollars shall be settled for by non-interest bearing scrip certificates, redeemable for bonds when presented, in sums of five hundred dollars, or multiples thereof.

The said stock shall be distributed as is provided for in the original agreement, by giving to each bondholder entitled thereto three hundred dollars of such stock for each of his said old Danville, Urbana, Bloomington and Pekin Railroad Company, and Indianapolis, Bloomington and Western Railway Company first consoli-

910 dated mortgage bonds so deposited and used; and an amount of such stock equal to $66\frac{2}{3}$ per centum of the principal of his Indianapolis, Bloomington and Western Railway Company second mortgage bonds so deposited.

An amount of stock scrip, not exceeding eight hundred and thirty thousand dollars, is to be distributed, as provided by said original agreement, by giving to each bondholder an amount of such stock scrip equal to thirty-three and one-third per centum, or thereabouts, of the principal of his Indianapolis, Bloomington and Western Railway Company second mortgage bonds so deposited; and for the accrued interest upon his said bonds a further amount of such stock scrip equal to twenty-two per centum or thereabouts of such principal.

It being distinctly understood by and between the parties hereto that said stock scrip shall receive no dividend until after the interest on the said new first and second mortgage bonds and income bonds for any one year shall have been paid, and until after the said stock shares distributed as aforesaid shall have received for the same year

a dividend of eight per centum. If any surplus remains after the payment aforesaid the said stock scrip shall be entitled to a dividend therefrom not exceeding seven per centum, and after the re-
911 ceipt of such dividend of seven per centum in any one year the said stock scrip shall be convertible into fully paid shares of the said capital stock.

Until such conversion, a number of shares of said stock equal in par value to the par value of such outstanding stock scrip shall be issued to the said purchasing committee, or to such person or persons as shall by the said committee be designated, in trust, with authority to take up and cancel the said stock scrip when it becomes proper so to do under the terms of this agreement.

A majority in interest of the subscribing bondholders shall have the right and power to arrange and determine all matters of detail not herein and heretofore fully provided for in carrying out the general plan of this agreement and any necessary variations therefrom, and in the distribution of the bonds and stock of the new company or companies among the parties interested; provided always that in such distribution each of the subscribers hereto shall be allowed to receive his just equitable share and proportion according to his share and interest in the purchase. It is understood and agreed, however, that each bondholder who does not subscribe for his proportion of the above mentioned preferred bonds on or before the 20th day of August next, hereby waives his right to subscribe for the same.

912 The purchasing committee may at any time prior to the sale receive additional signatures to this agreement from outstanding bondholders, and subsequently thereto such other terms as to the said committee may seem meet.

All the provisions of the agreement of December, 1875, which are inconsistent with the tenor of this supplemental agreement are hereby abrogated and annulled.

It shall be the duty of said new company or companies upon receiving from the purchasing committee the transfer and conveyance hereinafter provided for, of the property so purchased by the purchasing committee, to liquidate, adjust, and settle the account or accounts of said purchasing committee, in respect of the management of said railroad and property while in the hands of said purchasing committee, and of the receipts and disbursements of said committee in relation thereto, and upon receiving from said purchasing committee such amount, if any, as may be properly coming from it upon the account thus adjusted and liquidated, to give to said purchasing committee a release and discharge from any further liability or accountability to either the said new railroad company or companies, or to "the bondholders," for whose benefit said property was
913 purchased and held by said purchasing committee, for or in respect of the property so purchased, or the management or the income thereof while it remained in the hands or under the control of the said purchasing committee.

This agreement shall have no force or operation unless it shall be subscribed by bondholders holding said Danville, Urbana, Bloomington and Pekin Railroad Company, and first consolidated Indianapolis, Bloomington and Western Railway Company, bonds to the aggregate amount of not less than a majority of each class of said bonds.

All copies of this agreement, which shall be signed by any of the parties hereto, and delivered to the said purchasing committee, are to be taken together as one instrument, with like legal effect as if all the signatures were on a single paper.

In witness whereof, we have hereunto set our hands this twenty-fifth day of July, one thousand eight hundred and seventy-eight.

Signatures.	D. U. B. & P. Bonds.	I., B. & W. 1st Mortgage.	I., B. &. W. 2d Mortgage.

914 Here follows the order of court confirming and approving various receiver's reports and master's reports, made and entered at Springfield, Illinois, November 4th, 1878:

United States Circuit Court, District of Indiana and District of
915 Southern Illinois.

Order entered at Springfield November 4, 1878.

Now coming on this matter to be heard, and the court being sufficiently advised in the premises, it is hereby ordered and adjudged by the court that the exceptions filed herein on January 12, 1877, by the Farmers' Loan and Trust Company, to the report of Elliott & Andrews, special masters, to whom were referred the accounts of George B. Wright, receiver herein, the said exceptions not being pressed by the counsel who filed the same, be and the same are hereby overruled, and the report of said masters is hereby approved and confirmed.

And this matter coming on further to be heard as to the reports of J. D. Howland, master, to whom were referred various reports of said Geo. B. Wright, receiver, and no exceptions having been filed thereto, and the court being duly advised in the premises, it is hereby ordered that all of the reports of the said Howland be and the same are hereby confirmed and approved.

And this matter coming on further to be heard as to the reports of W. P. Fishback, master, to whom various reports of the said receiver were referred, and no exceptions having been filed thereto,
916 and the court being duly advised in the premises, it is hereby ordered and adjudged that each and all of said reports of said master be and the same are hereby confirmed and approved.

The orders made this day in this cause are subject to the right of the court (and this is hereby reserved) to make distribution of all

matters of account and division of receiver's indebtedness between the main line and the extension in such manner as shall hereafter seem just.

[Folios 917 to 921, both inclusive, were erased in original copy.]

And afterwards, to wit, at the November term of said
922 court, on the 30th day of November, 1878, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

And now here comes the Pullman Palace Car Company, by Mess. Baker, Hord and Hendricks, its solicitors, and presents its petition and accompanying account against said railway company for supplies and operating expenses, furnished to said railway company within the six months next before the date of the appointment of the receiver, (to wit, Dec. 1, 1874,) amounting to the sum of $6,207.52, exclusive of interest, and the said petitioner prays by said petition that said petition and accounts may be filed and referred to the master in chancery of this court, with directions to take the proofs of said accounts and report what, if any, sum should be allowed the petitioner for supplies and operating expenses for the six months aforesaid. And the court having heard said petition, now here allows said petition and accounts to be filed, and the same are hereby referred to the master, who is directed to take the proofs and report as aforesaid, without prejudice whatever to the rights of any party interested to object to this order, and move to vacate the same and set aside such reference.

And said petition and account is in the words and figures
923 following, to wit:

Circuit Court of the United States for the District of Indiana.

The Intervening Petition of the Pullman Palace Car Company.

To the Honorable the Judges of said Court, in chancery sitting:

Your petitioner, the Pullman Palace Car Company, respectfully represents and shows unto your honors that it is a corporation organized under and by virtue of the laws of the State of Illinois, engaged in the business of manufacturing sleeping and drawing-room cars and leasing the same to different railroad companies in the United States and elsewhere.

That on the first day of August, in the year 1870, petitioner entered into a contract with said defendant company, which will be produced and proved on the hearing hereof, whereby petitioner agreed, amongst other things, to furnish drawing-room and sleeping cars, to be used by said defendant company for the transportation of passengers sufficient to meet the requirements of travel on and over their line of railroad, then controlled or thereafter to be controlled by them by ownership, lease or otherwise, and also that it would keep the carpets, upholstery and bedding of each of the said cars
924 in good order and repair, and renew and improve the same when necessary at their own expense.

And said defendant railroad company for itself agreed that it would repair all damages to said cars of every kind occasioned by accident or casualty, and at its own expense keep said cars in good running order and repair, including renewal of worn-out parts and all things appertaining to said cars necessary to keep them in first class condition, except in those things to be done by petitioner as above stated.

It was further agreed the petitioner should have the right to charge persons occupying such sleeping cars a reasonable sum for each occupancy, but said defendant railroad company agreed that if the gross receipts of petitioner from each and every car placed on said defendant's roads should not equal the sum of three hundred dollars ($300) per month, then said defendant company would pay to petitioner in cash the difference between the amount actually received from each car and said sum of three hundred dollars ($300) per car, the settlement of said differences to be made yearly; it being further
925 provided that if the gross receipts for the year amounted to the sum of three thousand six hundred dollars ($3,600) per car, then said defendant company should not to liable for a deficiency during any particular month of that year.

And petitioner states that in pursuance of said contract it did place upon the lines of railroad controlled by said defendant company a sufficient number of its cars to meet the requirements of travel on said roads, and that under said contract the said defendant became liable to petitioner for supplies and materials furnished from time to time, and for deficiency in the monthly earnings of said cars to a large amount.

And petitioner states that during the six (6) months prior to the first day of December, 1874, it furnished a large amount of supplies to said defendant company for keeping said cars in good running order and repair under said contract, at the request of said company, a full statement of which is contained in the Exhibits "A" (1) to (12) inclusive, and "B" (1) to (19) inclusive, etc., hereto attached and made a part hereof.

And during the same period the said defendant company became liable to pay to petitioner the sum of six hundred and seventy-eight
926 and 50-100 dollars ($678.50) for deficiencies in the gross receipts of said cars, being a part of the operating expenses of said road, according to the statement hereto attached, marked Exhibit "C" and made a part hereof.

And petitioner states that on the said first day of December, 1874, there was due petitioner the sum of six thousand two hundred and seven dollars and fifty-two cents ($6,207.52) for the causes aforesaid, which sum is yet wholly unpaid.

And petitioner further shows unto your honor that it has never been advised or known of the order of this court requiring claims of this nature to be filed by the first day of September, 1878, until about the 15th day of November, 1878, and therefore is it that it has not heretofore asserted its claim herein made.

That John Renner, lately general accountant of this company, petitioner, in whose charge during his life-time was the collection of all claims of this nature, died in the latter part of August, 1878, and if said order was known to him, he was unable to attend to the same by the said first day of September, 1878.

927 Wherefore petitioner prays that it may be allowed to file this i s said petition, and that the same may be referred to the master in chancery of this court to ascertain the amount due petitioner for the six months prior to December 1st, 1874, with interest on the same, and report the same to this court, and that petitioner may have an order or decree for the amount so due, and that the receiver in said cause may be directed to pay the sum found to be due to petitioner out of the funds in his hands.

And that petitioner may have such other further or different relief as the nature of its case may require, and petitioner will ever pray.

PULLMAN PALACE CAR CO.,
By GEO. F. BROWN,
A. G. Sup't.

STATE OF ILLINOIS, }
Cook County, } *ss.*

George F. Brown, being duly sworn, says that he is the assistant general superintendent of the Pullman Palace Car Company, petitioner named in the foregoing petition, and is authorized to make this affidavit. That he has read said petition and knows the

928 contents thereof, and is familiar with the matters and things therein stated, and that the same are true.

GEO. F. BROWN.

Subscribed and sworn to by Geo. F. Brown, before me, this 28th day of November, A. D. 1878.

CHAS. L. ALLEN,
[SEAL.] *Notary Public.*

By agreement it is hereby stipulated that there is due and owing to the Pullman Palace Car Company the sum of six thousand two hundred and seven 52-100 dollars for the use of its sleeping cars in the ordinary operation of the I., B. & W. R'y, between June 1st and December 1st, 1874, and for supplies, material, and labor furnished and expended during said last named period in repairs of sleeping cars under and in pursuance of the contracts in substance set forth in the foregoing petition; and by agreement this stipulation is entered in lieu of the itemized accounts, exhibits, and contracts referred to in said petition, which accounts, exhibits, and contracts are by this agreement omitted from the record.

[Folios 929 to 992, both inclusive, and part of folio 993, erased in original copy.]

993 And afterwards, to wit, at the November term of said court, on the 23d day of December, 1878, before the Honorable Thomas Drummond and the Honorable Walter Q. Gresham, judges of said court, the following further proceedings in the above entitled cause were had, to wit:

994 The master in chancery of this court, and the master in chancery of the United States Circuit Court for the southern district of Illinois, having filed in court on the 1st day of November, 1878, the report of the sale of the main line of said road running from Indianapolis, in the State of Indiana, to the city of Pekin, in the State of Illinois, made by them in pursuance of the decree in this cause, and exceptions having been filed to said report by C.

995 W. Smith, Robert Turner and others representing the extension; by Joseph T. Thomas, James Turner, Ophelia Turner, and the Indianapolis, Bloomington and Western Railway Company, and said exceptions having been argued by counsel, and now the court being fully advised—

It is hereby ordered, adjudged, and decreed that the said exceptions, each and every of them be, and the same are hereby overruled, and that the said report of the said masters be and the same is hereby in all things confirmed and approved.

It is further ordered that the master in chancery of this court do pay out of the fund in the registry of the court, arising from said sale, the costs due to the officers of this court in this cause, taxed at the sum of $——.

That he further retain as his compensation for making said sale, advertising, and reporting the same, and all compensation due him as such master growing out of said sale, the sum of $2,500.00.

It is further ordered that the said master of this court, in connection with the master in chancery of the United States Circuit Court for the southern district of Illinois, out of said fund pay to the Farmers' Loan and Trust Company, as compensation for its services as trustee, the sum of $5,000, and to the said Farmers' Loan and

996 Trust Company for its incidental expenses and disbursements in carrying on and managing this suit, the further sum of $6,074. And to the said Farmers' Loan and Trust Company, as part of its counsel and solicitor's fees in carrying on this litigation, the further sum of $22,000, and to Wiley & Parker, of counsel herein, as their counsel fees, the sum of $6,000; and to Brown & Campbell, of counsel herein, the sum of $6,000, as provided for in said decree.

And that the residue of said fund in the registry of the court, arising from said sale, remain subject to the further order of the court.

[Folios 997 to 1000, both inclusive, were erased in original copy.]

1001 Here follows the master's report of sale of extension, filed at Springfield, Illinois, February 6th, 1879:

By agreement it is hereby stipulated that J. A. Jones, master, did

in strict pursuance of and in accordance with the decree, and after due notice published as required by said decree, on the 6th day of February, 1879, make public sale of said extension railway and property as by said decree commanded, and that at said sale Sumer R. Stone, Frederick D. Tappen, John Welsh, Jr., H. K. Thurber, and Philo C. Calhoun, as a bondholders' committee, did purchase said railway and property for the sum of one hundred and sixty-five thousand dollars, and did in all things comply with the terms of said decree as to their said bid; that said Jones, master, made and filed due report of said sale, and of the execution upon his part of said decree. This stipulation is entered in lieu of said master's report, which is omitted from the record.

[Folios 1002 to 1012, both inclusive, were erased in original copy.]

1013 And afterwards, to wit, at the November term of said court, on the 22d day of February, 1879, before the Honorable Walter Q. Gresham, judge of said court, the following further proceedings in the above entitled cause were had, to wit:

Come now, Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasing committee, and file their demand upon the master for a deed, and also their petition for an order directing the master to execute and deliver a deed of the premises sold under the decree herein, together with the master's endorsement thereon declining to comply with the demand upon him for a deed for reasons therein stated, and the endorsement of the Honorable Thomas Drummond, circuit judge, thereon, declining to comply with the request for an order upon the master directing him to execute and deliver a deed for reasons thereon stated.

And said demand and petition and the endorsements therein are in the words following, to wit:

To WILLIAM P. FISHBACK and J. A. JONES, masters in chancery, appointed to make sale under the decrees in the above cases:

The undersigned, Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasing committee, having on the day of the sale of the property mentioned in the said decrees deposited in
1014 your hands the sum of one hundred thousand dollars in cash, and having on the fourth day of February, 1879, delivered to you, the said William P. Fishback, master as aforesaid, nineteen hundred and fourteen of the two thousand bonds of the Danville, Urbana, Bloomington and Pekin Railroad Company mentioned in the said decrees, and two thousand eight hundred and nine of the said three thousand first consolidated mortgage bonds of the said Indianapolis, Bloomington and Western Railway Company mentioned in the said decrees, in payment of the amount which the holders thereof are entitled to receive under the distribution ordered in the said decrees, do now here tender, bring in, and offer to pay over to you, the said masters, so much more of the said purchase-money in cash as shall be necessary to pay and discharge the portion of the receiver's debts arising in the operation

of the main line of the said railroad, as shown in the report of George B. Wright, receiver, presented herewith, that is so say, the sum of two hundred and fifty thousand dollars, and we now here tender, bring in, and offer to pay over to you, the said masters, in cash, the balance of the said purchase money in full, to wit, the further sum of thirty-two thousand five hundred dollars, and *we do demand* that you do immediately execute and deliver to us a
1015 deed of said premises in conformity to and compliance with the requirements of the said decrees.

AUSTIN CORBIN,
GILES E. TAINTOR,
JOSIAH BLOSSOM,
Purchasers.
By J. D. CUMPLETT, *their Solicitor.*

[Endorsed as follows:] Service of this demand was made on me at Indianapolis, February 21, 1879, and I declined to comply therewith for the reason that the circuit judge has instructed me to withhold a deed until the further order of the court; W. P. Fishback, master.

This is to certify that I, William P. Fishback, one of the masters appointed by a decree of sale entered July 18, 1877, in the above entitled cause, have received from Austin Corbin, Giles E. Taintor, and Josiah B. Blossom, purchasing committee, the following described first mortgage bonds of the denomination of one thousand dollars each, with the unpaid coupons attached, viz:

1914 bonds of the Danville, Urbana, Bloomington and Pekin Railroad Co.; and

2809 bonds of the Indianapolis, Bloomingtonand Western Railway Co., in part payment, in compliance with the terms of said decree, for the main line of the said Indianapolis, Bloomington and Western Railway Company, sold at public auction on the
1016 thirtieth day of October, 1878, and purchased by said committee.

[Signed,] WILLIAM P. FISHBACK,
Master.

To the Honorable Judges of the said Courts:

I, George B. Wright, receiver herein, do hereby represent that the amount of money required to pay and discharge receiver's debts arising from the operations of the main line of said railway is estimated at two hundred ninety-two thousand and five hundred forty-three dollars and eighty-nine cents. Such estimate being based upon the same basis of division as understood to have been heretofore agreed to between the main line and extension committees and the books and accounts in my possession. The summary of such estimates is submitted in the accompanying statement.

GEO. B. WRIGHT, *Receiver.*

INDIANAPOLIS, IND., February 21, 1879.

Statement of receiver liabilities arising from the operations of the main line of the Indianapolis, Bloomington and Western Railway, to be paid into court by the purchasers pursuant to the decree:

Vouchers and pay rolls			131,431 78
Receiver's certificates and interest—			
	Iron and steel rails	66,630 00	
1017	Pay roll	26,000 00	
	Taxes, main line	48,746 67	
do	Special	4,701 44	
			145,478 11
Rogers Locomotive & Machine Works claim for damages with interest, 10 mos., @ 6 per cent		138,339 59	
Rogers Locomotive & Machine Works for rent		11,553 62	
			149,893 21
Total liabilities			$426,803 10
Less available assets			134,259 21
Balance to be provided by purchasers			$292,543 89

E. & O. E.

To the Honorable Judges of the said Courts:

Your petitioners, Austin Corbin, Giles E. Taintor and Josiah B. Blossom, respectfully show unto your honors that on the 30th day of October, A. D. 1878, pursuant to the provisions of the decree rendered in the above entitled suits, they paid into the hands of William P. Fishback and J. A. Jones, masters in chancery, appointed to make sale of the property mentioned in the said decrees, the sum of one hundred thousand dollars; that on the fourth day of February, 1878, they delivered to the said William P. Fishback, master as aforesaid, as shown by his receipt herewith exhibited, nineteen hundred and fourteen (1,914) of the two thousand (2,000) bonds of the Danville, Urbana, Bloomington and Pekin Railroad Co., mentioned in the said decrees, and two thousand eight hundred and nine (2,809) of the said three thousand first consolidated mortgage bonds of the said Indianapolis, Bloomington and Western Railway Com-
1018 pany, mentioned in the said decrees, in payment of the amount which the holders thereof are entitled to receive under the distribution ordered in the said decrees, to wit, the sum of six hundred and seventeen thousand five hundred dollars ($617,500); that that they did at Indianapolis, in the district of Indiana aforesaid, on the 21st day of February, 1879, tender and offer to pay over unto William P. Fishback, master aforesaid, in addition thereto, the sum of two hundred and fifty thousand dollars in cash, the same being so much more of the said purchase-money as is necessary to pay and discharge the portion of the receiver's debts arising in the operation of the main line of said railroad, as shown in the report of Geo. B. Wright, receiver, this day filed, and a copy whereof is hereto attached, and did then and there further tender and offer to pay over to the said William P. Fishback, master in aforesaid, the further sum of thirty-two thousand five hundred dollars, making in all the sum of one million dollars, in full of the whole amount of
1019 purchase-money aforesaid, and did then and there demand that he immediately deliver unto them, the said purchasers,

a deed of the said mortgage premises in conformity to and in compliance with the requirements of the said decree; that notwithstanding the provisions of the said decree, the said master did then and there decline to deliver a deed of said premises as required by the provisions of the said decree; that your petitioners made then said demand in writing, and that the said master endorsed his refusal thereon and filed the same in the said, to wit, and that a copy of the said demand and the said refusal are hereto attached.

Further your petitioners represent and show unto your honors that they are now, and at all times have been since their said demand, ready and willing to comply with the terms of the said purchase, and to pay over the whole amount of the said moneys on the delivery of a deed pursuant to the provisions of the said decrees.

Further your petitioners represent and show unto your honors that more than sixty days, exclusive of Sundays, have elapsed since the rendition of said decrees, and that no appeal has been allowed as prayed from the same. That more than ten days have elapsed since orders were passed and entered for the confirmation of
1020 the sale, and that no bond has been filed herein to operate as a supersedeas. Further your petitioners are advised that no supersedeas can now be allowed to stay proceedings under the said original decrees rendered July 18, 1877, which provide for the delivery of a deed to the purchasers upon the payment of the purchase-money, nor can any order operate as a supersedeas unless it is made in accordance with the provisions of the act of Congress.

Wherefore your petitioners pray that an order be entered directing the said masters to deliver a deed of the said premises to your petitioners upon the payment of the said balance of the said purchase-money in accordance with the requirements of said decrees.

AUSTIN CORBIN,
GILES E. TAINTOR,
JOSIAH B. BLOSSOM,
Purchasing Com.
By J. D. CAMPBELL, *their Solicitor.*

UNITED STATES OF AMERICA,
Northern District of Illinois. }

I, Giles E. Taintor, being duly sworn, do say that I am one of the petitioners above named; that the foregoing petition has been read in my hearing, and that the statements thereof are true, as I verily believe.

GILES E. TAINTOR.

Sworn to and subscribed before me this — day of February, 1878.
THOMAS DRUMMOND.

1021 Endorsement of Judge Drummond on petition:

"The clerk will file this application as of the 22d instant. I decline to comply with the requests contained therein, because I am

informed by Judge Harlan that the appellants are on the 5th of March next to appear before him and ask for a supersedeas, and he is of opinion that in the meantime no deed should be made nor possession given.

THOMAS DRUMMOND.

Feb. 27, 1879."

Here follows the order of court made and entered at Springfield, Illinois, on the 31st day of March, 1879, confirming the sale of extension:

1022 Circuit Court of the United States, Southern District of Illinois.

Order entered at Springfield March 31st, 1879.

Now, on this 31st day of March, 1879, there came on to be heard before the Honorable Thomas Drummond, circuit judge of this court, the exceptions heretofore filed to the master's report of sale by James Turner, Joseph T. Thomas, and the Indianapolis, Bloomington & Western Railway Company, and after hearing the evidence of B. E. Smith and Summer A. Stone upon the subject-matter of the aforesaid exceptions, the court overrules the exceptions and orders that the report of sale made by the master in chancery of the extension line of railroad as described in the said master's report, be and the same is hereby in all things confirmed, to which order and ruling the said James Turner, Joseph T. Thomas, and the Indianapolis, Bloomington & Western Railway Company by their counsel except, and the exceptants pray an appeal to the Supreme Court of the United States, which is granted upon their executing a bond as required by law.

1023 And afterwards, to wit, at the November term of said court, on the 5th day of April, A. D. 1879, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

And now on this day this cause coming on to be heard upon the application of Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasing committee, for an order directing the delivery to them of a deed pursuant to the provisions of the decrees entered herein, and the court having considered the said application, and the several reports of George B. Wright, receiver, and it appearing to the court that the amount of the receiver's debts arising in the operation of the main line of road of the said Indianapolis, Bloomington and Western Railway Company is assumed to be the sum of four hundred and seven thousand seven hundred and seven thousand seven hundred and seven and 64-100 dollars, in addition to certain unsettled and unadjudicated claims against the said receivership; that after deducting the available assets appearing to be in

the hands of the said receiver, the amount of money required
1024 to pay off and discharge the portion of said receiver's debts, including the said unadjusted and unliquidated claims arising in the operation of the said main line of road, is the sum of three hundred and sixty-two thousand:

It is thereupon considered by the court, and ordered, that upon the payment into court in cash and certificates of receiver's debts of so much more of the said purchase-money, in addition to the moneys heretofore paid, as shall be necessary to pay and discharge the said sum of three hundred and sixty-two thousand dollars, and upon the payment of the balance of the purchase-money, either in cash or in the bonds and coupons provided in the said decrees to be received in payment of the said purchase-money, each such bond and coupon being received for such sum as the holder thereof is entitled to receive under the distribution ordered in the said decree, and upon the payment in addition to the amount of the said purchase-money into the Circuit Court for the Southern District of Illinois of the amount of the capital stock taxes assessed against the said main line of railroad in the State of Illinois, which said amount is to be withdrawn from the court on the application of James K. Edsall, attorney general of the State of Illinois, unless within ninety days from the entry of this order the purchasers or their assigns obtain from a judge of a State court an order restraining the collection of the said
1025 taxes from the property so to be conveyed, and in that event the said fund shall abide the decision of the case in the State courts, and be applied to the payment of the said taxes in case the injunction or restraining order is ultimately dissolved, the said masters be, and they are hereby, directed to make and deliver unto the purchasers thereof a deed of the said mortgaged premises, which said deed shall be substantially in the following form, that is to say:

To all to whom these presents shall come greeting:

Whereas, in a certain suit in equity pending in the Circuit Court of the United States for the Southern District of Illinois, and in a certain other suit in equity pending in the Circuit Court of the United States for the District of Indiana, wherein Malcolm Turner and others were complainants and the Indianapolis, Bloomington and Western Railway Company and others were defendants, such proceedings were heretofore had, that on the cross-bill of the Farmers' Loan and Trust Company, exhibited in the said suits against the said Indianapolis, Bloomington and Western Railway Company and others, it was considered by the said courts respectively and ordered, adjudged and decreed that the said defendants, the Indianapolis, Bloomington and Western Railway Company, pay to the said
1026 complainant in the said cross-bill, the Farmers' Loan and Trust Company, the sum of six million two hundred and thirty-four thousand six hundred and twenty-five dollars, with interest thereon at the rate of six per centum per annum, together with the costs of said suits, and that in default of such payment

within the time limited in the said decrees, certain of the railroad property, effects and franchises of the said Indianapolis, Bloomington and Western Railway Company, in the said decrees particularly mentioned, described and set forth to be sold as an entirety; and

Whereas, J. A. Jones, master in chancery of the said Circuit Court of the United States for the Southern District of Illinois, and William P. Fishback, master in chancery of the said Circuit Court of the United States for the District of Indiana, were duly appointed by the said courts respectively to execute the said decrees by making sale of said premises; and

Whereas, default having been made in the payment of said moneys within the time limited in and by the said decrees, the said J. A. Jones and William P. Fishback, masters in chancery as aforesaid, having first advertised the time, terms and place of sale, in accordance with the requirements of said decrees, did on the ninth day of October, A. D. 1878, at the south door of the court-house, in the city of Bloomington, McLean county, in the State of Illinois,
1028 make sale of the said premises by public auction, in conformity to the provisions of the said decrees, unto Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasing committee, in trust for the holders of certain bonds, upon the trusts expressed in a certain agreement dated December 20th, 1875, and a supplement thereto dated July 25, 1878, (copies of which are attached to the report of the said sale, filed by the said masters in the said suits,) for the sum of one million dollars, the said purchasers being then and there the highest bidders for the said premises, and the said sum being the highest price bidden for the same; and

Whereas, the said Austin Corbin, Giles E. Taintor, and Josiah P. Blossom, purchasing committee as aforesaid, having before the said sale, pursuant to the requirements of the said decrees, deposited in the hands of the said masters the sum of fifty thousand dollars as security for their bid in case the property should be struck off to them, and having paid in cash to the said masters on the day of said sale, in addition to the said deposit of fifty thousand dollars, the further sum of fifty thousand dollars, the said masters did, after the said sale, forthwith make report of their said proceedings unto the said courts; and

Whereas such proceedings were afterwards had in the said suit, that on the twenty-third day of December, A. D. 1878, it was
1027 considered by the said courts respectively, and ordered, adjudged, and decreed that the said sale be, and the same was in all things approved, ratified, and confirmed; and

Whereas, afterwards, to wit, on the 9th day of April, A. D. 1879, the said Austin Corbin, Giles E. Taintor, and Josiah B. Blossom, purchasing committee as aforesaid, did pay into court in cash and certificates of receiver's debt, the further sum of 341,452.84 dollars, being so much more of the said purchase-money as is necessary to pay and discharge the portion of the receiver's debts arising in the operation of the main line of railroad of the said Indianapolis,

Bloomington and Western Railway Company, and did then and there pay into the hands of the masters in cash and in the past-due coupons and bonds mentioned in the said decrees (the said bonds and coupons being received by the said masters for the sum which the holders thereof are entitled to receive under the distribution ordered in the said decrees) the further sum of 558,547.16 dollars, being the balance of the said purchase-money in full:

[Written on the margin:] [The blank dates and amounts on pages 22 and 23 (order book) in red ink were inserted after the payment of the purchase-money. W. P. F.]

"Now know ye," that in consideration of the hereinbefore recited premises, and of the requirements of the said decrees, as well as in consideration of the payment of the said sum of one mil-
1029 lion dollars so paid as aforesaid, the said J. A. Jones and William P. Fishback, masters in chancery as aforesaid, have granted, bargained, sold, released, conveyed, and confirmed, and by these presents do grant, bargain, sell, release, convey, and confirm unto the said Austin Corbin, Giles E. Taintor, and Joseph B. Blossom, purchasing committee, their successor or successors and assigns—

The main line of railroad of the Indianapolis, Bloomington and Western Railway Company, extending from the city of Indianapolis, in the State of Indiana, to the city of Pekin, in the State of Illinois, including the right of way therefor, the road-bed thereof, and the superstructures of all sorts thereon, its water and other stations and shops, the lands and grounds connected therewith, used or provided to be used in operating said road, wherever situated, and all cars, engines and rolling stock, belonging to the said company (except the portion thereof by the provisions of said decrees ordered to be apportioned to the extension of the said railway, and specifically described and set forth in the twentieth paragraph of the said decrees respectively); also all the supplies and other things provided by the said company, or the receivers thereof, to be used in operating the said railroad, together with all franchises of the said company, and of its original constituent companies, that is to
1030 say, the said Danville, Urbana, Bloomington and Pekin Railroad Company, the Indianapolis, Crawfordsville and Danville Railroad Company, and the said Indianapolis, Bloomington and Western Railway Company, including the rights and franchises of the said several companies, to be and to act as corporations, so far as the same relate to the said main line of railroad; together with all and singular the rights, privileges, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the tolls, incomes, rents, issues and profits thereof, and of every part and parcel thereof. To have and to hold unto them, the said Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasing committee, their successor or successors and assigns, forever; subject nevertheless to judgments for right of way, and to all legal and valid claims therefor; also subject to all sums legally due for taxes which are a lien prior to the mortgages mentioned and recited in the said cross-bills;

also subject to the provisions of certain contracts of lease and purchase heretofore made with Oliver Adams for five hundred box freight cars by said receiver; also subject to that portion of such other claims and sums of money as are now under consideration by, and as shall be hereafter allowed by the said courts, or either of them, in the said suits, in preference to the liens of the hereinbefore mentioned mortgages
1031 or deeds of trust, for debts due by said railroad company for work and labor done and supplies and material furnished during a period not exceeding the six months next preceding the first day of December, 1874, in the operation of that portion of the said railroad by the said decree directed to be sold; but nothing herein contained shall be taken to prejudice the Farmers' Loan and Trust Company, or the said Austin Corbin, Giles A. Taintor, and Josiah B. Blossom, their successor or successors and assigns, or any of them, to object to the same, or to appeal from any order or orders which may be hereafter made by the said court, or either of them in relation thereto to the Supreme Court of the United States, which said claims, judgments and taxes, and car contracts and such back pay, labor and supply claims as shall be finally adjudged against said property hereby conveyed, are hereby expressly assumed by the said Austin Corbin, Giles E. Taintor, and Joseph B. Blossom, purchasing committee, their successor and successors or assigns, as and for a charge and lien upon the property hereby conveyed, are hereby expressly assumed by the said Austin Corbin, Giles E. Taintor, and Josiah B. Blossom, purchasing committee, their successor or successors and assigns, as and for a charge and lien upon the property hereby conveyed, prior and superior to any interest or estate hereby vested in them or any of them; also subject to the right and power of
1032 the said courts, or either of them, to enforce the payment of the said claims, judgments, taxes, car contracts, back pay, labor and supply claims, as shall be ultimately established, or any of them, by proper orders in the said suits to be noted at the foot of said decrees, or otherwise duly entered in the said courts, and particularly subject to the right and power of the said courts, or either of them, upon their own motion, or of any judge thereof, or upon the application of any person in interest, to resume possession of the said property or of any part thereof at any time when the said purchasers or their assigns shall fail to pay any of the said moneys on the order of the said courts or either of them; and the said Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasing committee, for themselves and their successor or successors and assigns, do hereby covenant and agree that they will surrender the possession of the said premises, and of every part thereof, whenever an order shall be made by either of said courts, directing or requiring the same to be done, pursuant to the purposes hereinbefore stated; and it is expressly understood that this deed is made, and that the said property shall be taken, possessed and held, subject to the provisions last above written.

In trust, however, for the holders of certain bonds upon
1033 the trusts expressed in a certain agreement dated December 20th, 1875, and a supplement thereto dated July 25th, 1878, copies whereof are attached to the reports of sale filed in the said suits by the said masters.

In testimony whereof the said J. A. Jones and William P. Fishback, masters in chancery as aforesaid, have hereunto set their hands and seals, this twenty-second day of March, in the year of our Lord one thousand eight hundred and seventy-nine.

J. A. JONES, [SEAL.]
M. C. U. S. C. C. South. Dist. Illinois.
WILLIAM P. FISHBACK, [SEAL.]
Master in Chancery, U. S. C. C. Dist. Indiana.

STATE OF ILLINOIS, }
County of Sangamon, } *ss.*

I, James A. Winston, clerk Circuit Court in and for said county, in the State aforesaid, do hereby certify that J. A. Jones, personally known to me to be the same person whose name is subscribed to the within instrument, appeared before me this day in person, and acknowledged that he signed, sealed, and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal this — day of ——.

[SEAL.] JAMES A. WINSTON,
Circuit Court.

1034 STATE OF INDIANA, }
County of Marion, } *ss.*

I, George C. Hitt, a notary public in and for said county, in the State aforesaid, do hereby certify that William P. Fishback, personally known to me to be the same person whose name is subscribed to the within instrument, appeared before me this day in person, and acknowledged that he signed, sealed, and delivered the said instrument as his free and voluntary act, for the use and purposes therein set forth.

Given under my hand and notarial seal, this eighth (8th) day of April, 1879.

GEORGE C. HITT,
[SEAL.] *Notary Public.*

And that upon the delivery of said deed the said George B. Wright, receiver, be, and he is hereby, required to surrender and deliver up to the said purchasers the said railroad and property, and every part thereof, pursuant to the requirements of the said decree.

It is further ordered that the said moneys shall remain in the registry of the court, or in the hands of the said masters, until the further order of the court.

It is further ordered that the right and power of the said courts, or either of them, is hereby reserved to enforce the payment of the

said judgments for right of way, and all legal and valid
1035 claims therefor, all sums legally due for taxes which are a lien prior to the said mortgages, the said car contracts, and that portion of such other claims as are now under consideration by and as shall hereafter be allowed by the said courts, or either of them, for debts due by said railway company for work and labor done and supplies and material furnished during a period not exceeding the six months next preceding the 1st day of December, 1874, as shall be ultimately established, or any of them, by proper orders in the said suits, to be noted at the foot of the said decrees, or otherwise duly entered in the said courts; and particularly the right and power of the said courts, or either of them, on their own motion, or of any judge thereof, or on the application of any person in interest, to resume possession of the said property or of any part thereof at any time when the said purchasers or their assigns shall fail to pay any of the said moneys on the order of the courts or either of them, and the said purchasers shall take the said deeds, and shall take, hold, and possess the said property and every part thereof, subject to the provisions hereof; and it is further ordered that no distribution be made of the said moneys claimed by the said Rogers Locomotive and Machine Works upon a certain judgment against the said receiver pending the writ of error sued out by the said receiver to the Supreme Court of the United States, except on the order of the court hereafter to be made, on due notice to
1036 the parties in interest.

And upon the said 5th day of April, 1879, the following stipulation was filed by the parties herein:

It is hereby stipulated and agreed that the following clause of the order providing for the execution and delivery of a deed to the purchasers of the I., B. & W. main line, to wit—

"And it is further ordered that no distribution be made of the said moneys claimed by the Rogers Locomotive and Machine Works upon a certain judgment against the said receiver pending the writ of error sued out by the said receiver to the Supreme Court of the United States,"

—be, and the same is hereby, changed and modified so as to read as follows, to wit:

"And it is further ordered that no distribution be made of the said moneys claimed by the said Rogers Locomotive and Machine Works upon a certain judgment against the said receiver except upon the further order of the court upon notice to parties in interest."

In entering said order the clerks of said United States Circuit Courts are hereby authorized and directed to enter said modification in lieu of the said clause of the original order.

J. D. CAMPBELL,
For Purchaser and Complainant in Cross-Bill.
J. M. BUTLER,
For Rogers Locomotive and Machine Works.

INDIANAPOLIS, IND., April 2, 1879.

1036A And afterwards, to wit, at the November term of said court, on the 25th day of April, 1879, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the receiver and files his petition asking an order herein concerning receiver's debts. And said petition is in the words following, to wit:

(Petition not on file.)

And afterwards, on said 25th day of April, 1879, before the honorable judge aforesaid, the following further proceedings were had in said cause, to wit:

Come now the Farmers' Loan and Trust Company, the bondholders' committee and the purchasers, and file their written consent to the allowance of the receiver's petition filed herein on this day. And said consent is in the words following, to wit:

(Said written consent not on file.)

And afterwards on said 25th day of April, 1879, the following order was received from the Honorable Thomas Drummond, circuit judge at Chicago, to wit:

Coming on this matter to be heard with respect to the petition of the receiver herein for the disbursement of the fund now in
1036B court, derived from the sale of the main line of said road, to the liquidation of certain certificate, voucher, and payable accounts of said receiver, and the court being duly advised in the premises—

It is hereby ordered, adjudged, and decreed that there shall be paid on the said debts of said receiver the sum of fifty thousand dollars, and the said sum shall be disbursed by the masters of this court out of the fund now in the hands of said masters derived from the sale of the main line of said road.

And it is further hereby ordered that in making disbursements of said sum, by said masters, upon statements submitted to them by said receiver, of the amount and character of the said certificate, voucher, and payable accounts to be paid, the said masters may thereupon make such disbursements through the said receiver.

Here follows the order of court granting purchasers of ex-
1037 tension a deed, made and entered at Springfield, Illinois, on the 9th day of May, 1879:

1038 Circuit Court of the United States, Southern District of Illinois.

Order entered at Springfield May 9, 1879.

And now on this day the cause coming on to be heard upon the application of Sumner R. Stone, F. D. Tappen, John Welsh, Jr., H. K. Thurber, and Philo C. Calhoun, purchasing committee in trust for the holders of certain extension mortgage bonds of the Indian-

apolis, Bloomington and Western Railway Company, upon the trusts of a certain agreement—a copy of which is attached to and filed with the master's report of sale hereinafter mentioned—for an order directing the delivery to them of a deed pursuant to the provisions of the decrees entered herein, and the order of this court confirming the sale made by the master on February sixth, A. D. 1879. And the court having considered the said application, and it appearing that said purchasing committee is ready to pay into court the entire amount bid at the said sale, to wit, one hundred and forty thousand dollars, in addition to the twenty-five thousand dollars paid into court at the time of said sale—in cash or in receiver's certificates. And
1039 it appearing from the several reports of the receiver and from an agreement and stipulation made and entered into by and between said extension purchasing committee, and the purchasing committee of the main line of said Indianapolis, Bloomington and Western Railway Company, adjusting and dividing the receiver's indebtedness between said extension and said main line, that said sum is far more than sufficient to liquidate and pay all of the receiver's indebtedness incurred in operating, repairing and improving said extension railway:

It is thereupon considered by the court, and ordered that upon the payment into court in cash and certificates of receiver's debts of one hundred and forty thousand dollars more of the purchase-money in addition to the twenty-five thousand dollars heretofore paid, the same being the entire purchase-money bid at said sale, the said master, J. A. Jones, be, and he is hereby, directed to make and deliver unto the purchasers of said extension railway and property a
1040 deed of the said mortgaged premises, which said deed shall be substantially in the following form, that is to say:

By agreement, it is stipulated that the form of a deed in strict accordance with the terms of the decree of sale was inserted here in the body of this order, which form is omitted from the record.

[Folios 1041 to 1050, both inclusive, were erased in original copy.]

1052 And that upon the delivery of said deed the said William A. Smith, receiver of said extension railway, be and he is hereby required to surrender and deliver up to the said purchasers the said railway and property and every part thereof, pursuant to the requirements of the said decree.

It is further ordered that the said moneys shall remain in the registry of the court, or in the hands of the said master, until the further order of the court.

It is further ordered by the court that upon the payment into court by said purchasing committee, as aforesaid, of the said sum of one hundred and forty thousand dollars, as aforesaid, in addition to the twenty-five thousand dollars heretofore paid, the county treasurer, assessors and tax collectors, and the deputies and officials of
1053 each and every of them, of and for the several counties, Champaign, Piatt, De Witt, Logan, Mason, and Mason, in

the State of Illinois, and each, all and every of them, be and they are hereby enjoined and restrained from making any attempt by levy, seizure or otherwise, to enforce the collection and payment of any of the capital stock taxes assessed against said extension railway as a part of the Indianapolis, Bloomington and Western Railway for and during ninety days from and after the date of the entering of this order, and the execution and delivery of the deed hereby ordered and decreed to be made and delivered.

It is further ordered that the right and power of the said court is hereby reserved to enforce the payment of the said judgments for right of way and all legal and valid claims therefor, all sums legally due for taxes which are a lien prior to the said mortgage, and that portion of such other claims as are now under consideration by and as shall be hereafter allowed by the said court for debts due
1054 by said railway company for work and labor done and supplies and material furnished during a period not exceeding the six months next preceding the 1st day of December, 1874, as shall be ultimately established, or any of them, by proper orders in the said suit, to be noted at the foot of the said decree, or otherwise duly entered in the said court, and particularly the right and power of the said court on its own motion, or any judge thereof, or on the application of any person in interest, to resume possession of the said property, or of any part thereof, at any time when the said purchasers or their assigns shall fail to pay any of the said moneys on the order of the court, and the said purchasers shall take the said deed and shall take, hold, and possess the said property, and every part thereof, subject to the provisions hereof.

1055 And afterwards, to wit, at the May term of said court, on the 12th day of May, 1879, before the Honorable Walter Q. Gresham, one of the judges as aforesaid, the following further proceedings in the above entitled cause were had, to wit:

"The following order was this day received from the Hon. Thomas Drummond, judge, at Chicago.

Now at this day come the petitioners, the receiver in this cause, and submitted a schedule of certain vouchers and certificates of indebtedness due by him as such receiver, and also came the Farmers' Loan and Trust Co., the bondholders committee, and the purchasers, and file a written consent that an order might be made for the payment out of the fund in court of any of the liquidated and undisputed claims against the receiver, and the court being sufficiently advised, it is ordered by the court that there shall be paid to the receiver out of the funds paid by the purchasers under the sale of the main line of the road, the sum of $60,318.54, in liquidation of the vouchers and certificates of said receiver referred to in said petition, interest to be paid on the said certificates only up to the first day of May, instant, and not thereafter; and such payment and disbursement shall be made by the said receiver under the su-
1056 pervision and direction of the master of this court, the said

receiver presenting to the said master a list of the various vouchers and certificates so to be paid.

And said petition, schedule, and consent are in the words following, to wit:

Your receiver herein respectfully submits to this honorable court—

That there is now due on voucher account of your receiver for material, &c., &c., to the date of his surrender of the said railroad property, the sum of about $36,478.54, and there mature during the present and coming month of June on certificates account the further sum of $23,840—making a total of about $60,318.54. The said estimates, &c., do not include balances due other roads and sundry vouchers to be made as soon as reports come in as to the amount, &c.

Your receiver shows: That the said vouchers and certificates are owing to a large number of creditors, and much inconvenience and expense will devolve upon said creditors unless payment of the respective amounts due them is promptly made, and if they are required to separately present their individual claims to this honorable court.

Fund for payment of said claims is now in the hands
1057 of the masters of this court.

Wherefore, by reason of the premises, your receiver submits that such order and proceeding be had as may be right and proper.

Respectfully submitted. GEO. B. WRIGHT,
Receiver.
By C. W. FAIRBANKS,
His Solicitor.

Schedule.

Receiver's Vouchers and Certificates due in May and June.

February Vouchers	$11,671 64
March Vouchers	1,890 50
April Vouchers (1st to 11th)	16,916 40
Certificates and Interest due in May	16,560 00
Certificates and Interest due in June	7,280 00
	$60,318 54

There are balances due other roads and sundry vouchers to be made as soon as reports come in, the amount of which cannot be estimated.

The Farmers' Loan and Trust Company, the bondholders committee, and the purchasers consent that an order be made herein for the payment out of the fund in court of any of the liquidated and undisputed claims against the receiver, and that the said fund
1058 may be disbursed either by the receiver or by the masters, as the court may direct.

J. D. CAMPBELL.
Sol. for said parties.

NEW YORK, May 7, 1879.

And afterwards, to wit, on the 23d day of May, A. D. 1879, the Rogers Locomotive Works filed its application in the above entitled cause in the words following, to wit:

1059 The Rogers Locomotive and Machine Works shows unto the court, that some eighteen months previous to the appointment of receiver in the above entitled cause, said Rogers Locomotive and Machine Works delivered to said railway company twenty-eight locomotive engines and tenders upon contracts of conditional sale—title to remain in conditional vendor until full payment should be made; that at the time of the appointment of a receiver in the above entitled cause by the Montgomery Circuit Court of Indiana, and the De Witt Circuit Court of the State of Illinois, to wit, November 19th, A. D. 1874, there was due and unpaid upon said twenty-eight engines and tenders over four hundred and twenty-five thousand dollars; that immediately after appointment of receiver by said State court, said Rogers Locomotive and Machine Works notified said receiver of the ownership of said engines and tenders, and demanded the same of and from said receiver, and said receiver refused to deliver the same; that on the 19th day of May, 1875, said Rogers Locomotive and Machine Works petitioned the Montgomery Circuit Court of Indiana for leave to bring suit
1060 against said receiver and said railway company for the return and possession of said locomotive engines and tenders, and for "a reasonable compensation for the use, benefit, and wear of said engines and tenders since the same were demanded," which leave was granted by said State court and suit brought against said receiver and said railway company upon said last named day; that afterwards, to wit, on the 22nd day of May, said cause and suit was duly transferred to the United States Circuit Court for the District of Indiana, and was on the 24th day of May, A. D. 1875, ordered docketed as a pending cause in said court by Justice Davis, sitting as circuit judge of said court; that on the 11th day of January, 1876, said Circuit Court of the United States for the District of Indiana rendered and entered the following judgment in favor of said Rogers Locomotive and Machine Works in said cause, to wit:

Come again the parties, and said defendants failing and refusing to answer further herein, and electing to stand by their demurrer, the court now finds for the plaintiff, and that the twenty-eight locomotive engines and tenders in plaintiff's declaration de-
1061 scribed are the property of plaintiff, and that said plaintiff is entitled to the possession thereof; the court further finds that said locomotive engines and tenders are now in the possession of George B. Wright, receiver of the Indianapolis, Bloomington and Western Railway Company and defendant herein, and are wrongfully detained by said George B. Wright.

The court further finds that before the commencement of this action the plaintiff demanded the possession of said locomotive engines and tenders from said defendants. It is therefore considered

by the court that plaintiff do have and recover of and from said defendants the said twenty-eight locomotive engines and tenders in plaintiff's declaration described, the same being marked and designated by number, and numbered from 45 to 72 inclusive, and that said plaintiff do have and recover the immediate possession thereof, and its costs herein, and the court not being advised of the amount of the plaintiff's damages by reason of the detention of said property, let a writ of inquiry go. That soon after the rendi-
1062 tion of said judgment said receiver, in obedience thereto, surrendered said engines and tenders, but by agreement retained in use upon said railway sixteen of said engines and tenders until May, 1876. That the use and rental of said sixteen engines from January 11th, 1876, to May, 1876, has been adjusted and agreed upon at the sum of $13,286.66 due June 1st, 1876, which, with interest thereon from said date of adjustment, amounted on May 1st, 1879, to the sum of $15,610.82, which still remains wholly due and unpaid. That on April 1st, 1876, said receiver and said Rogers Locomotive and Machine Works made and entered into the following agreement in open court, which agreement was sanctioned and approved by the court and ordered by the *the* court accordingly, to wit:

"Come again the parties on this first day of April, A. D. 1876, and by agreement of said plaintiff, Rogers Locomotive and Machine Works, and said defendant, George B. Wright, receiver of the Indianapolis, Bloomington and Western Railway Company,
1063 now in open court made, a trial by jury upon the writ of inquiry for assessment of damages hereinbefore ordered by this court is waived by agreement, and this cause is by the agreement of said parties, and the order of the court, referred to Hon. John D. Howland, master in chancery, to take the testimony and report the same, together with his findings thereon, to this court upon the following points, to wit:

1. The amount justly due from said receiver to said Rogers Locomotive and Machine Works *as rental* for the use of the twenty-eight locomotives and tenders in plaintiff's declaration described, from December 1st, 1874, to January 11th, 1876.

2d. The amount justly due from said receiver to said Rogers Locomotive and Machine Works for all damages and injuries suffered and incurred by said twenty-eight locomotive engines and tenders from December 1st, 1874, to January 11th, 1876.

3d. The amount justly due from said receiver to said Rogers Locomotive and Machine Works for any and all damages—not
1064 included in and covered by the first and second specification above set forth—sustained by plaintiff by reason of the detention of said twenty-eight locomotive engines and tenders, in plaintiff's declaration described, by said receiver, from December 1st, 1874, to January 11th, 1876.

We hereby agree to the foregoing order or reference.

ROGERS LOCOMOTIVE AND MACHINE WORKS,
By McDONALD & BUTLER, *Attorneys.*
GEORGE B. WRIGHT,
Receiver Ind., Bloom. Western R'y Co.

That said agreement was made because it was evident that the time and expense of an investigation by a jury would be so great as to render such an investigation an inexpedient and exceedingly expensive method of arriving at the facts to be ascertained. That on November 26th, 1877, the master, to whom the matter was referred by said agreement, reported the evidence taken, and his findings thereon in favor of said Rogers Locomotive and Machine Works, in the aggregate amounting to the sum of $167,618.00, of which gross
1065 sum $19,582.00 was by said master allowed for interest upon the amounts he found should have been paid for use and wear of said engines in the hands of said receiver from the time when the same should have been paid. That upon the final hearing and argument before the said master the bondholders' committee of the I., B. & W. R'y main line bondholders was represented by their solicitor, A. E. Williams, who took part with C. W. Fairbanks, solicitor for receiver and railway company, in the argument, and afterwards submitted written suggestions to said master in behalf of said bondholders. That said receiver and railway company filed exceptions to said master's reports, and said Rogers Locomotive and Machine Works filed answer thereto and cross-exceptions to part of said report. That afterwards, on the 17th day of April, 1878, the Circuit Court of the United States for the district of Indiana, after full argument upon said exceptions, in which argument said bondholders were represented by their solicitor, R. E. Williams, Esq., rendered the following judgment in favor of said Rogers Locomotive
1066 and Machine Works, to wit:

It is therefore considered and adjudged by the court that the plaintiff, the Rogers Locomotive and Machine Works, do have and recover of and from George B. Wright, receiver of the Indianapolis, Bloomington and Western Railway Company, as such receiver, the sum of one hundred and fifty-one thousand five hundred and fourteen dollars and seventy-nine cents ($151,514.79), together with costs accrued and to accrue, taxed at ——— dollars. This judgment to be paid by said receiver out of funds coming into his hands and arising from the operation of said railway, or, if such funds are insufficient to pay the same without embarrassing the operation of said railway by said receiver, then this judgment to be paid out of funds arising from the sale of said railway and property."

In which judgment said court disallowed all interest allowed by said master in said report and findings. Said Rogers Locomotive and Machine Works shows that said judgment remains unpaid, and that the same amounted, with its interest up to May 1, 1879,
1067 to the sum of $160,959.21, which is now due and unpaid, making the total claim against said receivership on May 1,

A. D. 1879, for judgment and interest, $160,959.21; for rental of 16 engines and interest, $15,610.82. Said Rogers Locomotive and Machine Works further shows that by the third clause of a certain stipulation made and entered into by and between the main line purchasing committee and the extension purchasing committee in and connected with the litigation and matters involved in the suit of "Malcolm C. Turner et al *vs.* The Indianapolis, Bloomington and Western Railway Company and others," the said main line is to pay of said claims and demands of said Rogers Locomotive and Machine Works the 40-46 part thereof, which is of said judgment the sum of $139,964.58, and of said rental claim the sum of $13,575.51, making total due from said main line upon said claim up to May 1, 1879, the sum of $153,540.04. That said receiver, at the request of said main line bondholders' committee, has appealed from said judgment
1068 rendered and entered April 27th, 1878, to the Supreme Court of the United States, but no *supersedeas* bond has been given. That on June 8, 1878, said bondholders by their solicitors applied to Justice Harlan at chambers in Chicago, Ill., to fix amount of *supersedeas* bond; that Justice Harlan intimated that if he fixed any bond it would be in an amount equal to the judgment, interest, and costs, and enough more to cover interest and damages pending appeal, but desired application first to be made to Judge Gresham. On June 10th, 1878, said bondholders, by their solicitor, J. D. Campbell, applied to Judge Gresham, judge of the Circuit Court of the United States for the district of Indiana, to fix the amount of *supersedeas* bond, which was fixed then and there by said court at the amount of said judgment, interest, and costs, and enough in addition to cover all costs, interest, and damages pending appeal. That said bondholders' solicitor then and there announced that no *supersedeas* bond would be given in said cause.
1069 That on October 30th, 1878, said main line of the said railway was sold under the decree and modifications thereof rendered in the above entitled cause in which this application is filed. That by the 13th clause of said decree as modified, said sale was not and could not be made subject to said judgment in favor of said Rogers Locomotive and Machine Works, because no supersedeas had been or ever has been granted superseding said judgment, and said sale was not and could not be made under said decree subject to said rental claim of said Rogers Locomotive and Machine Works, and that said claims were not and could not be, under said decree, assumed by the purchasers, but the same were and are by the 14th clause of said decree, to be paid out of the purchase-money bid by said purchasers, over which said purchasers have no control whatever, and in which they, as purchasers, have no interest whatever, after the same was paid into court. That in order to obtain a deed to said main line said purchasers made a showing to the court
1070 of the receiver's indebtedness not assumed by them, and to which said sale was not made subject, and in said showing included the $\frac{40}{46}$ part of said judgment and rental claim and interest thereon in accordance with said stipulation, and have under the or-

der of the court paid into court in money the said $\frac{40}{46}$ part of said judgment and rental and interest thereon, and the same is now in court. Said Rogers Locomotive and Machine Works therefore asks the court for an order directing William B. Fishback, master, to pay to its solicitors, McDonald & Butler, the said sum of $153,540.04, and that it may also have and receive its interests upon the same from Wednesday, May 14th, to Thursday, May 22d, 1879, inclusive, the same being $25.59 per day, out of such fund as the court may order and direct. Said Rogers Locomotive and Machine Works further shows that it has paid out by its solicitor, John M. Butler, the following amount of costs properly taxable in said cause, to wit:

July 29th, 1876, personal expenses of J. D. Howland, master, in taking evidence at Paterson, New Jersey.	$100	00
1071 July 10th, 1876, amount paid Charles W. Stagg for reporting evidence for master	135	65
Amount paid Charles Watson for reporting evidence for master	683	91
Amount paid Wm. Nelson for reporting evidence taken at Paterson	111	60
Total paid by Rogers Locomotive and Machine Works	$1031	16

For payment of which an additional order is asked. There are court costs remaining unpaid in the sum of $103.95, as shown by the statement of the clerk filed herewith, all of which said costs said Rogers Locomotive and Machine Works asks may be by order of court paid out of said purchase-money fund now in court.

Wednesday, May 14th, 1879.

ROGERS LOCOMOTIVE AND MACHINE WORKS,
By McDONALD & BUTLER, *its Solicitors.*

And at the same time, to wit, on the 23d day of May, A. D. 1879, the Farmers' Loan and Trust Company filed its answer to said application in the words following, to wit:

The answer of the Farmers' Loan and Trust Company to the petition of the Rogers Locomotive and Machine Works, praying for an order for the payment out of the fund in court arising from the sale of the main line of railroad of said defendant railway of
1072 a certain judgement recovered by the said petitioner against George B. Wright, receiver herein:

1st. The said Farmers' Loan and Trust Company, answering the said petition, aver that they are the complainants in the cross-bill filed in the said suit upon which the decrees of sale herein were rendered; that the holders of the said bonds, to whom the said fund is distributed by the said decree, are not parties to the said suits, and cannot be heard to object to the appropriation of said fund to the payment of the said judgement, except by and through this complainant; that the whole of said fund belongs to the said holders of the said bonds and may not lawfully be distributed to the said petitioners.

2d. The said Farmers' Loan and Trust Company admits
1073 the rendition of the said judgement in the said petition mentioned and referred to, and hereby refers to and makes a part of this answer all and singular the records and proceedings in the said suit now remaining amongst the records of the Circuit Court of the United States for the district of Indiana, and this complainant denies each and every allegation contained in the said petition, except the allegations as to the existence of the said record and proceedings.

3d. That as to the use and rental of the said sixteen engines mentioned and referred to in the said petition, from January 11th, 1876, to May, 1876, this complainant alleges and avers that it has no knowledge or information as to whether the same has been adjusted and agreed upon at the sum of $13,286.66, due June 1st, 1876, as alleged in said petition; but, on the contrary, it is informed and believes that the said matter was not so adjusted and agreed upon; but the complainant now here admits that the said sum of $13,286.66 is a reasonable sum for the use of said last mentioned
1074 engines, and consents that an order be entered for the payment of 40-46 thereof, without interest, out of the said sum, and this complainant denies that said petitioners are entitled to interest thereon for any part of the said time.

4th. This complainant denies that on the final hearing and argument of the said suit before the said master, the said bondholders' committee of the main line bondholders was represented by their solicitor, R. E. Williams; it denies that the said Williams took part with C. W. Fairbanks, solicitor for receiver and railway company, in the argument, or that he afterwards submitted written suggestions to the said masters; but this complainant is informed and believes that the said Williams filed before said masters a written protest against any recovery or award in said suit, except as against said receiver personally.

5th. This complainant denies that said bondholders were represented in said Circuit Court, in argument of the said exceptions or otherwise; it denies that the said bondholders either requested or authorized the appearance of the said Williams or any one in
1075 the said suit; it denies that it or said bondholders in any way, either directly or indirectly, contributed to the defence of said suit; but it is informed and believes that the said Williams, at the request of the said Fairbanks, solicitor for the said receiver, and acting for and on behalf of the said receiver, did assist in the argument of the said exceptions.

6th. This complainant admits the making of the said agreement between the said committees respectively representing the bondholders of the said main line and extension, and now here fully recognizes and abides by the same, and in the event of the ultimate payment of the said judgment out of the said fund consents that the proportionate distributions therein provided for should be adopted by the court; but this complainant avers that said petitioners are either

parties or privies to the said agreement; that the same was solely entered into as an adjustment of matters in dispute between the parties thereof, and was not intended to and does not constitute an agreement or consent to the allowance or payment of said petitioners' claims or any part thereof out of the said fund, but was
1076 intended to and does leave the said parties thereto and this complainant free to object to the allowance of the said claim or any parts thereof.

7th. This complainant avers that the said payment of the said money into court as aforesaid was made under protest, a copy of which said protest is hereto attached and made a part hereof; but that no act of the said purchasers in procuring the said report of the said receiver, or in paying the said moneys in court, can legally be held or taken to estop or prevent this complainant from objecting to the allowance of the said claim.

8th. As to the said expenses of the said petitioners, this complainant objects to the allowance of any part of the same until they are regularly taxed as part of the costs of the said suit on due showing to be made.

9th. Further, this respondent avers that it is the trustee in the mortgages upon the foreclosure of which said sale was made, and as such trustee represents the bondholders for whose benefit said sale was made, and who are the beneficiaries of the said fund raised by the said sale; that said judgmeut was obtained in an action at law in which neither it, the said trustee, nor the said bondholders
1077 were made parties, and they are not therefore bound by the said judgment, and the said complainant submits that the said court had not jurisdiction, in the said cause, to declare the said judgment a lien on the mortgaged property represented by this complainant, nor to award the payment of the said judgment out of the earnings of the said road, nor out of the proceeds of said sale, for that the said property and the said funds are and have been in the custody and control of the said Circuit Court of the United States for the district of Indiana, and for the southern district of Illinois, in this suit, and for that the parties to this suit only, and those that shall become parties by intervention or otherwise, are entitled to be heard in the distribution thereof.

10th. The said judgment is based upon consent of the said receiver and not upon an advisory proceeding, and is only binding upon the parties consenting.

11th. The said judgment is based upon matters not cog-
1078 nizable in a suit of replevin, and is not supported by the money earned in the business.

12th. The said complainant is in replevin against the said receiver, who was then and there the legal custodian of the said property *pendente lite*, and as such was and is not legally answerable for damages for *in*tention; the said receiver could not lawfully surrender the possession of the said property without an order of the court; and it appearing by said petition that as soon as such order

was obtained the possession of the said property was duly surrendered, wherefore there is no legal basis for the said recovery and no equity in favor of petitioners for the allowance of the said claim.

13th. The said complainant seeks a recovery for matters of damage arising *ex delicto*, while the said judgment is for matters arising wholly *ex contractu*, for which there is no legal warrant or authority in the issue found in the said suit.

14th. Further, this complainant objects and protests against the allowance of the said claim or any part thereof, for that the said claimants have no right whatever, either in law or equity, to
1079 the payment of the said judgment out of the said fund, for that it appears on the face of the said record that the said judgment is founded upon alleged damages for the wrongful act of the receiver in detaining the said property and negligently improving the same, for which there is no lien given upon either the earnings of the said railroad or the proceeds of the sale thereof, and for that the said mortgagees have in law and in equity a prior and superior right to be paid in full out of the said earnings and out of the said proceeds.

15th. Further, this complainant alleges and shows that there is no fund in the hands of this court arising from the earnings of the said road while in the hands of the said receiver, applicable to the payment of the said claim; and that the said judgment is not founded upon the operating expenses of the said road, incurred under the order of the said court.

And thereupon this complainant prays that an order be entered herein dismissing the said petition with cost.

FARMERS' LOAN AND TRUST COMPANY, *Trustee*,
By J. D. CAMPBELL, *of Counsel*.

[Folios 1080 to 1082, both inclusive, were erased in original copy.]

1083 And afterwards, to wit, at the May term of said court, on the 23 day of May, 1879, before the Honorable Walter Q. Gresham, one of the judges as aforesaid, the following further proceedings in the above entitled cause were had, to wit:

"The following order was this day received from the Honorable Thomas Drummond, judge, at Chicago."

Now, on this twenty-third day of May, A. D. 1879, the application of the Rodger Locomotive and Machine Works for payment of the judgment rendered in its favor on April 17, 1878, by the Circuit Court of the United States for the District of Indiana, against George B. Wright, receiver, for use and rental of and damages to certain locomotive engines and tenders while detained and used by said receiver, out of the purchase-money and proceeds of sale arising from the sale of the main line of said I., B. and W. Railway, and
1084 now in the hands of the master of this court, came on for hearing and decision upon said application and answer of Farmers' Loan and Trust Co., and the court having consid-

ered said application and being fully advised in the premises, hereby orders and directs the master, William P. Fishback, to pay to McDonald & Butler, solicitors for said Rogers Locomotive and Machine Works, the sum of one hundred and thirty-nine thousand nine hundred and sixty-four and $\frac{53}{100}$ dollars, the same being $\frac{40}{46}$ parts of the amount due upon said judgment, including interest up to May 1, 1879, and take proper receipt therefor as his voucher for said payment, and the Farmers' Loan and Trust Co. prays an appeal to the Supreme Court of the United States, which is granted without prejudice, upon the said company entering into bond according to law in the penal sum of fifty thousand dollars, which bond, when given and approved by the court, shall operate as a supersdeas in this case; to the granting of which said appeal and supersedeas bond the Rogers Locomotive and Machine Works, by their counsel, except. And in the matter of costs in said Rogers Locomotive and Machine Works, it is hereby referred to William P. Fishback, master
1085 of this court, to ascertain and report the facts in relation thereto and his conclusions thereon.

"The following order was this day received from the Honorable Thomas Drummond, judge, at Chicago:"

Now, on this twenty-third day of May, A. D. 1879, the application of the Rogers Locomotive and Machine Works for payment out of proceeds of sale of the main line of said Indianapolis, Bloomington and Western Railway Co., of the $\frac{40}{46}$ part of the rental of some sixteen engines from Jan'y 11, 1876, until about the first of May, 1876, said $\frac{40}{46}$ part of said amount being $11,553.62 and interest thereon, came on to be heard, and the court having heard said application, now orders the master, William P. Fishback, to pay to McDonald & Butler, solicitors for claimant, out of the said proceeds of sale, the said sum of eleven thousand and five hundred and fifty-three and $\frac{62}{100}$ dollars ($11,553.62), being the $\frac{40}{46}$ of the principal of said amount claimed; and the court not being sufficiently advised as to the interest claimed thereon, reserves the question of payment of interest for the further consideration of the court.

1086 The following opinion of Judge Drummond was filed on the 23d day of May, A. D. 1879:

Circuit Court of the United States, District of Indiana.

MAY 23, 1879.

DRUMMOND, J.—The main line of the Indianapolis, Bloomington and Western Railway was sold, and a large sum of money has been paid into court, and this is an application made by the Rogers Locomotive & Machine Works for the payment of a portion of that sum, and the question is whether the court ought to allow the claim.

The facts of the case which give rise to this question seem to be substantially these: There was a bill in equity pending in the State court, growing out the floating indebtedness of the railway company,

and a cross-bill was filed by the Farmers' Loan and Trust Company as the mortgage trustee of a large indebtedness due from the company on the bonds and coupons. At the time this suit was pending in the State court, application was made to the court by the receiver appointed in that court, setting forth that there was a controversy between the Roger's Locomotive & Machine Works and himself, in relation to a claim of the former against him as receiver, and
1087 the court directed a suit to be brought in the State court to settle the controversy, and an action of replevin was accordingly brought. It consisted of two branches; one was as to the right of the Rogers Locomotive & Machine Works to the possession of certain locomotives which were then in the possession of the railway company, and the other was in relation to the claim for damages and rental for their use during a certain time. Now, it is important to consider the aspect of the case as it existed at that time.

There was a bill in chancery pending in the State court, with a cross-bill to foreclose the deed of trust and sell the property to meet the indebtedness of the company due upon the bonds. There was a suit pending in the State court authorized to be brought by the Rogers Locomotive and Machine Works against the receiver for the purpose of settling the controversy between him and that company. This being the status of the cases, they were both removed to the Federal court, the replevin case in the first instance, and afterwards the chancery suit. Having both come into the Federal court
1088 they were subject to all the rights which had been acquired by the parties respectively in the State court, and consequently unless changed or modified by the order of the Federal court, the action of replevin in the Circuit Court of the United States was subject to the order which had been made by the State court, authorizing the suit to be brought in the State court, and the case in chancery was also subject to the order which had been made in the State court in relation to the replevin suit. Therefore we cannot disconnect the two suits in considering the question which arises in this case. There were two cases, but the suit at law grew out of the suit in chancery and was in some respects auxiliary to it, so that when it came into the Federal court it was, as in the State court, disconnected with the case in chancery. And when the order was made by consent in the Federal court to refer it to the master in chancery, it must be considered as a part of it. When the property was removed from the State to the Federal court, the receiver of the State court exercised the same control over it as in the State court, and
1089 he was recognized by the Federal court as the receiver of the property, and became its receiver; and I cannot doubt that the Federal court had the right to make the order which was made, and that the order was binding on the equities and legal rights of all parties in relation to the subject-matter of controversy in the replevin suit. Undoubtedly the court had jurisdiction of the case, and had the right to go on and settle the controversy and to adopt this mode of settlement with the consent of all parties. The receiver repre-

sented all parties, the trustees, and all claimants who had claims upon the property, and was the receiver for the interest of all. That being so, what was the legal consequence growing out of the settlement of this controversy by the Circuit Court of the United States; that is, the controversy between the Rogers Locomotive and Machine Works and the receiver?

When this matter was referred to the master and he made his report, and the court entered judgment, it was a settlement of the controversy and, I think, bound all parties. It bound the parties connected with the chancery suit in the same manner, it seems to
1090 me, as it bound the parties in the suit at law, because, as I have said, it was an emanation of the chancery suit. Perhaps the chancellor might have control over the suit, analogous to that he would have if an issue out of chancery had been directed by the court; if not for all purpose and to every extent, certainly to some extent the court might be said to have power over it, but there never has been any interference by the court in the chancery suit with the replevin suit. I agree, however, that it can be only binding in relation to all matters that were legitimately before the court in the replevin suit, and which was properly settled by the judgment in that suit, and consequently the question is, whether the controversy was of such a character as to be binding, as to the point in question here, upon the bondholders and the trustee; and I cannot see why it is not.

The rental was a claim against the receiver, as such, for the use of certain locomotives during the time he was using them in the operation of the road. The rental of these engines constitutes a just claim against the receiver, and against the court which was operat-
1091 ing the road. Why then is not the receiver and the court bound for the amount which was found by the court in the replevin suit for the use and rental of the locomotives during the time mentioned? I know of no good reason. It was certainly just as much a part of the operating expenses of the road as labor, or materials and supplies; and there being a controversy as to what should be the amount paid for the rental, submitted and determined as stated, it seems to me that the decision of the court and its judgment must at present be considered final and conclusive on the subject.

Then, as to the other question, whether the receiver ought to pay for and whether the damage sustained in the use of the engines by the receiver constitutes a just charge against him as for the operation of the road. Perhaps that part of the case is not so clear as the other, but still I think in principle it is not distinguishable. The locomotives were used by the receiver in the operation of the road, and the rental is part of the expenditure in. That is given for the use of the various engines. The other is claimed because in
1092 the use there has been an omission to make the proper and necessary repairs. Now, the use of the locomotives is one thing, and for that just compensation should be paid. If there has been any act omitted to be done which the receiver ought to have

done, namely, if he has omitted making the necessary repairs, then that would seem to constitute as just a claim against the receiver as for the use of the locomotives. It would necessarily be an important element in the value to the Rogers Locomotive and Machine Works of the engines, and I think that it is reasonable and right, and that the receiver should be held accountable as an officer of the court, and for which the income of the road and proceeds of the property should be held liable. It is difficult to discriminate between a claim of this kind and one for supplies and materials, or labor, or for the rental of rolling stock, such as locomotives and cars. The counsel for the applicant insists that it is simply a non-compliance with a contract on the part of the receiver. Whether there was a wrongful act by the receiver does not, perhaps, clearly appear;
1093 but suppose it were so, and that the receiver by his own wrong, as by negligence, omitted to make the necessary repairs and take the proper care of the locomotives in operating the road, ought he not to be liable?

I am aware that the case of Davenport *v.* Receivers, 2 Wood's Reports, 519, seems to go the length of holding, if I understand it, that neither the receiver nor the property in possession of the court is liable for the negligence of the receiver or that of his employees. This circuit has been somewhat different. We have often held that the receiver is liable for the negligence of his employees, and we have required him to pay out of the income of the road for damages which parties have sustained by his negligence or that of his employees. The operation of a railroad by a court, through a receiver, is something out of the routine duty of courts and receivers. There must be exceptional rules applicable to such receivers. The receiver holds the property for preservation. It may be questionable whether the receiver should be personally responsible for the negligence of his employees, and whether public policy does not require that the receiver, as the organ of the court, should be answerable un-
1094 der his contract as the operator of the road. The rules upon this subject have not been very clearly and satisfactorily settled, and, therefore, we should proceed with some caution in cases of this kind; but I feel no hesitation in holding in this case, the fact being that the receiver did not make the necessary and proper repairs of these engines and allowed them to be damaged and injured, that he ought to make compensation; and, therefore, I shall allow that claim as well as the other. The money is in court to which this applicant has a just claim, and whether or not this judgment is valid is a question we must consider on this application as settled. It is time an appeal has been taken to the Supreme Court of the United States from this judgment. It may be reversed, but until reversed we must regard it as a binding judgment. It was competent for the parties affected to supersede it by giving the necessary bond. They have not chosen to do so, but have only filed, as I understand, the ordinary bond for costs. Therefore the judgment is left in full

force and we have to treat it as *res adjudicata* in this court.
1095 There is a way perhaps in which these parties can avail themselves of any error, either in the order which the court will now make or in rendering judgment in the replevin suit, and that is by appealing from the order of this court and giving the necessary security.

The fund is in court and cannot be taken out except by its order, and in requiring a supersedeas bond of course the court would take into consideration the fact that the fund was here subject to the order of the court at any time, whenever, if the case should go to the Supreme Court, the rights and equities of the parties are determined. And if this order should be affirmed, then the money in court, with any security that may be given, would meet the claim which the Rogers Locomotive and Machine Works may have; so that I shall direct the money to be paid over, and if the other party desires to appeal from the order which I make, of course it can do so upon giving the necessary security, which would have to be enough to cover interest during the time the case might be pending in the Supreme Court, costs, and other incidental expenses and damages.

Correct: T. D.

[Folios 1096 to 1100, both inclusive, were erased in original copy.]

1101 And afterwards, to wit, at the May term of said court, in recess thereof, on the 1st day of September, 1879, the following further proceedings in the above entitled cause were had, to wit:

Comes now the master and files his report concerning the disbursements of money under orders of April 25 and May 12, 1879, in the words following, to wit:

To the Honorable Court:

The undersigned, master in chancery, reports to the court that on April 25, 1879, an order was entered in said cause directing the payment by the master, out of the purchase-money in his hands, of the sum of $50,000 on account of certificates and vouchers of receiver's debts, (main line,) said order providing that such payments might be made through the receiver. And on May 12, 1879, another order was made directing the disbursement of the further sum of $60,318.54, in liquidation of vouchers and certificates of the receiver, the last named order requiring that such payments were to be made under the supervision and direction of the master, the receiver being required to present a list of the vouchers and certificates so paid.

In obedience to said orders I did pay to said receiver on the 28th day of April, 1879, the sum of $50,000, and on the 13th day of May, 1879, the further sum of $60,318.54, and I herewith re-
1102 turn as a part of this report the receipts of said receiver for said sums, with lists of the vouchers to be paid by him, under the orders above named.

I further report that afterwards said receiver did deliver to me a statement of payments made by him from the funds so paid to him by me, under said orders, from which it appears that the sum of $110,318.54 was disbursed by him in pursuance of said orders.

Said receiver also delivered to me the original vouchers showing the payment by him of the several items named in said statement.

I thereupon examined said statement and vouchers, and upon a comparison thereof do report and find that the same are correct in all things, and recommend that the same be allowed and approved.

I herewith file the several receipts and statements above named, together with the original vouchers, and make them a part of this report.

Respectfully submitted,

W. P. FISHBACK,
Master.

SEPT. 1, 1879.

1103 STATEMENT of Unpaid Vouchers and Certificates, April 28th, 1879.

Name.	What for.	
Dickason & English	Ties	$1489 10
Ind'pl's Rolling Mill Co	Iron	4388 21
Dickason & English	Ties	992 70
J. F. Richardson	"	2507 34
Besone & Co	Lumber	95 27
J. G. Golden	Timber	162 31
Hill & Son	Ties	305 69
Illinois Printing Co	Printing	274 37
Eli Meiser	Lumber	235 85
McLean County Coal Co	Coal	1263 00
A. Snedaker	Castings	378 18
M. M. Wright	Wood	67 50
C. H. & D. R. R	Joint expenses	1210 11
Gunnison, Hamilton & M	Oil	758 16
"	Candles	96 00
W. Hunter	Services	10 00
Lincoln Coal Company	Coal	247 00
"	"	176 50
G. W. Northrup	Services	15 00
W. & A. C. Semple	Lumber	947 51
Sand Creek Coal Co	Coal	1346 40
Thomas May & Co.	Wheels	1028 67
U. R. R. T. & Ry. Co	Tranfer of cars.	1356 00
do	do	1099 00
Union Ry. Co	Rent of track	500 00
Receiver certificates, due in April	Iron	16,560 00
April pay-rolls		13,156 96
American D. Ticket Co	Tickets	68 00
W. Bohainan	Locks	31 00
1104 Crerar, Adams & Co	Waste, &c	585 55

Name.	What for.	
Culmer Spring Co.	Springs	$81 60
Chess, Carley & Co.	Oil	182 39
Coburn & Jones	Lumber	91 95
J. B. Cleaveland	Rent	208 35
do	Heating	66 13
		$51,981 80

The within specified list of liabilities, amounting to fifty-one thou. sand nine hundred and eighty one dollars and eighty cents ($51,981.80), are just and proper claims against me as receiver, to which the fund arising from the sale of the Indianapolis, Bloomington and Western Ry. (main line) is applicable under the orders of the court, and W. P. Fishback, clerk U. S. Dist. Court, has this day paid to me fifty thousand dollars for the purpose of discharging so much of said claims, and I hereby agree to file with said Fishback proper vouchers covering said amount of ($50,000) fifty thousand dollars.

GEO. B. WRIGHT,
Receiver I., B. & W. Ry.

INDIANAPOLIS, IND., April 28th, 1879.

1105 STATEMENT of Reciver's Certf's and Interest and Vouchers unpaid May 12, 1879.

Receiver's certf's & int.	ac. iron rails	$5,142 92
do	"	1,027 02
do	ac. sp'l taxes	1,028 00
do	ac. main line tax	5,193 56
do	"	1,038 66
do	"	10,368 89
(Interest to May 1st on above is included)		$23,801 05
American Oil Co.	oil	180 58
Atch. & Neb. R. R.	checks	72
Am. Dup. Tk't Co.	tickets	68 00
W. B. Burford	time cards	37 25
H. Bronson	brooms	6 00
A. Barr	dress timber	47 62
Baker & Randolph	binding b'k	4 00
Beesore & Co.	lumber	196 10
W. Bohannon	locks	31 00
Bingham, Walt & M.	rep. clock	2 50
Browning & Sloan	alcohol	88 55
do	soap, &c.	2 35
M. M. Buell & Co.	spikes	401 85
do	" &c.	441 00
Byram, Cornelius & Co.	crash, &c.	5 85
Crerar, Adams & Co.	waste, &c.	585 55
do	keys, &c.	203 27
do	copper, &c.	410 09

S. D. Childs & Co.	rep. stamp	$2	00
J. B. Cleaveland	rent	208	35
do	heating	66	13
do	"	76	34
C. H. & D. R R.	joint exp.	435	45
1106 C. & E. I. R. R.	adv't'g	3	40
do	printing	7	00
C. & A. "	crossing exp.	41	00
Cutler & Proctor	pattern	1	20
Chamb. Mf. Co.	rep. stamp	3	00
Chess, Carley & Co.	oil	96	25
C., B. & Q. R. R.	switching	12	00
C., C., C. & I. "	wheels	37	00
City of Decatur	water rent	33	33
Chess, Carley & Co.	oil	182	39
Culmer Spring Co.	springs	81	60
Coburn & Jones	lumber	91	95
L. M. Dayton	bolts, &c.	182	35
"	washers, &c.	230	36
Dickason & English	piles	130	08
F. M. Deweese	casting	6	00
Eggle Mach. W'ks	wheels	14	00
G. D. Emery	lumber	41	67
Forest City Var. & O. Co.	oil	33	83
Fairbanks & Co.	rep. scales	21	50
Fitchburg R. R. Co.	wheels	60	00
Galena Oil W'ks	oil	1457	30
Gunnison H. & M.	candles	160	00
do	"	120	00
Halls S. & L. Co.	rep. safe	18	00
Hoopes & Townsend	rivets	13	87
Hoole Bag Ck. Co.	checks	5	00
do	do	23	00
Ills. Printing Co.	printing	38	60
Indp'ls Roll. Mill Co.	re-roll iron	5151	43
do	"	4810	43
do	"	2061	43
1107 Indpls. & St. L. R. R.	joint exp.	8	00
do	do	77	50
do	do	77	50
do	rent of track	250	00
do	do	250	00
do	do	91	66
Ills. Cent'r. R. R.	switching	10	00
I. C. & L. do	rent of track	60	78
do do	do	22	23
do do	transfer	2	31
J. M. W. J. S. & P. Co.	stationery	17	85

J. M. W. J. S. & P. Co.		pr. and st.		$3 75
do		do		43 79
do		do		138 92
do		do		117 48
Kelly Lamp Wks.		lanterns		71 50
John Knight		pipe, &c.		20 16
do		do		144 95
L. S. & M. S. Ry.		wheels		106 00
Carl Lotz		coal		69 00
do		"		69 00
do		"		69 00
Layman, Cary & Co.		hardware		65 76
do		"		187 74
do		"		144 97
do		"		50 30
do		"		194 54
Michell, Tranter & Co.		iron		39 85
do		"		41 95
Murphy, Shermin & Co.		japan		115 00
do		varnish		300 00
Mothershead, Morris & Co.		fire pots		9 03
1108 Mooney, Taylor & S.		hose		21 75
McLean Co. Coal Co.		coal		754 80
Robt. Mains		" &c.		101 25
Mitch. Centr. R. R.		wheels		17 00
Conrad Neal		pipe, &c.		13 00
Nathan & Dryfees		injectors, &c.		160 90
N. W. Lake Ice Co.		ice		1 35
Nat. Tube Wks. Co.		injectors		109 90
Necomb, Olsen & Co.		bolts		13 80
Nat. Ry. Pub. Co.		advt'g.		19 16
do		sub'n		1 40
Otis Iron & St. Co.		steel		143 71
Pioneer Oil Co.		grease		134 64
A. H. Pugh		printing		46 00
Paris & Dan. R. R.		coal		382 00
do		switching		74 50
Philips, Nimick & Co.		iron		20 48
Pioneer Brass Wks.		castings		200 47
P. L. & D. R. R.		joint exp.		82 58
do		rep. cars		66 35
P. & Sp. R. R.		rent of track		1258 59
Ry. Age Pub. Co.		advt'g.		12 50
do		"		12 50
do		"		9 60
C. T. Renyolds & Co.		paint, &c.		138 99
do		"		113 93
do		"		49 65
Thos. R. Reeve		frogs		230 85

Rowe & Van Nest	rent depot		$11 00
Rand, McNally & Co.	advt'g.		23 17
Isaac Swank	horse killed		35 00
W. & A. C. Semple	lumber		1215 60
1109 W. & A. C. Semple	waste		45 65
do	" etc.		178 40
Sellers, Fowler & Co.	splicers		322 67
Signal Oil Works	oil		192 75
do	"		180 37
do	"		212 55
Spiegel, Thoms & Co.	repairs		5 15
do	moss, etc.		100 55
J. W. Shuck	hooks, etc.		1 30
A. Snedaker	castings		164 34
Sand Creek Coal Co.	coal		554 40
Towner, Sullivan & Talbot	iron, etc.		53 14
Thomas May & Co.	wheels		1372 00
do	"		647 00
T. H. Car Manufacturing Co.	wheels, etc.		606 20
do	"		600 00
U. S. W. E. & P. Co.	cylinder, etc.		42 00
Union R'y Co.	rental		500 00
U. R. R. T. & S. Y. Co.	transfer		583 00
Western Union Telepraph Co.	services		31 06
do	"		11 55
J. F. Wallick	telephone		4 60
Western Car Co.	rent of cars		1100 00
W. S. Wheel Co.	spokes		5 00
J. E. Williams	posts		25 00
Wiles, Coffin & Smith	matches, etc.		12 65
do	"		12 60
A. L. Wright & Co.	Druggett & Co.		43 25
F. A. Woodmansee	ink		2 50
Wilson, Walker & Co.	iron plates		77 96
do	links and pins		151 40
Wabash Iron Co.	iron		165 49
1110 do	"		44 64
do	"		37 30
Williams Tool Co.	sockets		9 00
W. A. Adams	acc't cars		263 30
B. & S. W. R'y W. Co.	"		639 83
U. Roll. St. Co.	"		639 83
Total			$60,456 04

The within specified list of liabilities, amounting to sixty thousand four hundred and fifty-six 4-100 dollars, are just and proper claims against me as receiver, to which the fund arising from the sale of the Indianapolis, Bloomington and Western Railway (main line) is applicable under the orders of the court, and W. P. Fishback, master

in chancery, has this day paid to me sixty thousand three hundred and eighteen 54-100 dollars for the purpose of discharging so much of said claims, and I hereby agree to file with said W. P. Fishback proper vouchers covering said amount of sixty thousand three hundred and eighteen 54-100 dollars.

GEO. B. WRIGHT,

Receiver of Indianapolis, Bloomington and Western Railway.

Indianapolis, Ind., May 13, 1879.

Statement of payments made by Geo. B. Wright, receiver
1111 Indianapolis, Bloomington and Western Railway Company, during the months of April and May, 1879, from the fund derived from the sale of the main line, and received from the master under orders of court.

[Folios 1112 to 1119, both inclusive, were erased in the original copy.]

By agreement the detail of said statement is omitted from
1116F the record, the aggregate only being, which said aggregate is as follows:

Aggregate.

Vouchers	$56,776 04
Pay rolls	13,181 45
Certificates and interest	40,361 05
Total	$110,318 54

And afterwards, to wit, at the November term of said court,
1120 on the 13th day of February, 1880, before the Honorable Walter Q. Gresham, judge of said court, the following further proceedings in the above entitled cause were had, to wit:

"The following order was this day received from Hon. Thomas Drummond, circuit judge."

Various parties having filed intervening petitions heretofore in this case claiming payment for work and labor done and for supplies and material furnished to the railway company prior to the 1st day of December, 1874, it is ordered that the same be referred to William P. Fishback, Esq., master in chancery of this court, and he is hereby directed to take testimony and report the same, together with his finding of facts, to this court upon the following points:

1st. What amount, if any, was paid by the said company of the coupons on bonds of the main line and of the extension or interest thereon from the 1st day of January, 1873, to the first day of July, 1874, and from the first day of July, 1874, to the first day of December of that year, and from what source the funds were derived, if any payments were made, whether from the income of the road or otherwise.

2d. What amount, if any, was expended by the said company on the main line and on the extension during the times last aforesaid for

permanent improvements, betterments, right of way or other real estate, new equipment and for construction, and if any such
1121 payments were made, the source from which the funds were obtained, and whether from income or otherwise.

3d. What amount was expended by the receiver on the main line or on the extension in permanent improvements, right of way or other real estate, new equipment, or for construction after the 1st day of December, 1874, and the sources from which the funds were obtained to make such payments, whether from income or otherwise.

The master in making his report upon the points heretofore stated shall discriminate as far as practicable between what may be considered the mere operating expenses of the railway and what may be considered as permanent improvements or betterments or equipments of the road.

4th. The gross earnings of the railway during the whole of the time before mentioned, namely: from the 1st day of January, 1873, until the receiver relinquished possession of the property and in the divisions of time before mentioned, and what remained after deducting from those gross earnings, if anything, for necessary operating expenses, proper equipment and useful improvements, where any payments shall be found by the master to have been made, he shall state in what the payments have consisted, whether of cash or property, or equipment, and where taxes have been paid either by
1122 the company or by the receiver, the master shall report for what and the dates and amounts thereof. The master shall also find and report what property was received by the receiver on the 1st day of December, 1874, or afterwards, under the authority of the court, whether the same was real, personal or mixed, and also what property of the same character was surrendered by the receiver to the purchasers.

And it is further ordered by the court that the master may inquire into and report in relation to any other facts which in his judgment he may deem material to the subject of inquiry covered by this order.

And it is further ordered that the master shall have the right to receive and consider as testimony in this reference all of the testimony heretofore taken in the matter of the intervening petitions and the pleadings thereon, so far as the same may be pertinent and applicable to the subject of inquiry presented by this order.

1123 And afterwards, to wit, at the November term of said court, on the 18th day of February, 1880, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now E. S. Alexander, by Sleeper and Whitten, his solicitors, and files his petition *nunc pro tunc*, February 18, 1879, in the words following, to wit:

(Petition was for supplies furnished between June 1 and December 1, 1874, and is omitted by agreement.)

1124 And afterwards, to wit, at the November term of said court, on the 29th day of March, 1880, before the Honorable Thomas Drummond and Honorable Walter Q. Gresham, judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Upon the application of Mr. Butler, of counsel for the intervenors, and by consent of counsel representing the new company and the purchasers at the master's sale, it is agreed that the witness Lewis and ————————, whom Mr. Butler desires to examine as to matters contained in the books of account and vouchers of the old company and of the receiver, shall have access at the offices of the company to such books and papers for the purpose of making such examinations as are necessary, and to take from said books abstracts of any accounts or entries that may be proper or necessary, provided that such inspection and examination shall be made at such time and manner as not unreasonably to interfere with the business of the company's officers, and provided further, that such examinations shall be made in connection with and under the observation of some person designated by the purchasers, who shall be permitted at the time to take duplicates of any abstracts or statements made up by Mr. Butler's witness from the books. Such examinations and abstracts to be limited to matters embraced with the reference.

1124–1 And afterwards, to wit, at the November term of said court, on the 30th day of March, 1880, before the Honorable Thomas Drummond and the Honorable Walter Q. Gresham, judges as aforesaid, the following further proceedings in the above entitled cause were had, to wit:

Come now on the 30th day of March, 1880, the Bondholders' Purchasing Committee of the main line of the Indianapolis, Bloomington and Western Railway, by J. D. Campbell, their solicitor, and the Bondholders' Purchasing Committee of the extension of the Indianapolis, Bloomington and Western Railway, by John M. Butler, their solicitor, and submit to the court the matters in controversy between the main line and the extension Bondholders' Purchasing Committee, reserved and referred to the court for hearing and determination by the third specification of the second paragraph of the stipulation and agreement made and entered into by and between said committees on the 30th day of January, A. D. 1879.

And for the purpose of said submission, hearing and determination by, said Bondholders' Purchasing Committee, by their said solicitors, here now produce and file in court their agreed statement of facts, together with eighteen exhibits, mentioned and referred to therein—marked as follows: Exhibits A, B, C, D, E, F, X, X 1, X 2, G, H, I, J, K, L, M, N and O; and this matter is now

1124–2 submitted to the court upon said stipulation and agreed statement of facts and agreement of counsel, and the court being fully advised in the premises, finds: 1st. That the rolling stock taxes mentioned in said third specification ought to be paid by said

main line and said extension in proportion to their respective ownership of the rolling stock, said proportion being as near as may be $\frac{40}{46}$ main line and $\frac{6}{46}$ extension, as determined by the agreement of said parties entered into July 14, A. D. 1877. 2d. That the extension ought to pay the one-sixth part and the main line ought to pay the five-sixth part of the capital stock taxes mentioned in said third third specification of the second paragraph of said stipulation of January 30, A. D. 1879. 3d. Nothing in the findings and decision of this court shall in any manner prevent either or both of said parties contesting the validity and legality of said capital stock and said rolling stock taxes, if so advised; the purpose of the findings and decisions of this court under this reference being solely to fix and determine, as between said parties, the proportion in which payment upon said taxes shall be made respectively by said main line and said extension whenever and as payment upon the same may be required.

It is therefore ordered, determined, and decreed by the
1124–3 court that the bondholders' purchasing committee of the main line of the Indianapolis, Bloomington and Western Railway do pay or cause to be paid the five-sixths part ($\frac{5}{6}$), and that the bondholders' purchasing committee of the extension of the Indianapolis, Bloomington and Western Railway do pay or cause to be paid the one-sixth part ($\frac{1}{6}$) of whatever sum of money may be required to be paid by reason of the unpaid capital stock tax assessments now claimed and held against the Indianapolis, Bloomington and Western Railway, and the extension thereof in the State of Illinois.

It is further ordered, determined, and decreed that all rolling stock taxes assessed against the rolling stock of the Indianapolis, Bloomington and Western Railway Company in the State of Illinois, for the years 1873 and 1874, whether paid or unpaid, shall be so settled and adjusted between the parties hereto that the said shall extension bear and pay the six forty-sixths part ($\frac{6}{46}$) thereof and the said main line shall bear and pay the forty forty-sixth part thereof.

Either of the parties to this submission may, upon notice, apply to the court for further orders of directions for the enforcement of this decree.

1024–4 *Agreed Statement of Facts.*

To Hon. Thomas Drummond, Judge United States Circuit Court:

It is hereby agreed that for the purpose of the hearing by the court under the 3d specification of the stipulation of January 30th, 1879, entered into by and between the bondholders' committee of the main line and of the extension of the I., B. & W. Railway, the following statement of facts and accompanying exhibits shall be considered by the court as true and correct, except as otherwise expressly mentioned

1. Exhibit "A" is the agreed statement of facts under which the division of equipment and rolling stock between main line and ex-

tension was made, and correctly states the entire equipment of the I., B. & W. Co. at and previous to December 1st, 1874.

2. Exhibit "B" is the agreement between main line and extension dividing the rolling stock, and correctly shows the rolling stock apportioned to the extension.

3. Exhibits "C" and "D" are statement of Lewis and certificate of Alexander, engineer, showing time at which extension
1124–5 and Decatur branch were accepted by I., B. & W. Ry. Co. from the contractors; also time trains began running on extension and Decatur branch.

4. Exhibit "E" correctly shows the length of main line and sidings in Indiana and Illinois separately, also length of extension and sidings.

5. Exhibit "F" correctly shows the number of engines used to do all the business of extension from December 1, 1874, to November 30, 1878, and the manner in which freight rates have been credited to and received by the extension on the books of the receiver, but the accounts so kept have been changed by the agreement of the parties.

6. The stipulation of January 30, 1879, and its accompanying schedules—three papers maked "X," "X 1," "X 2"—are all before the court for the purpose of showing the divisions of earnings and expenses appearing on the books of the receiver, and as the same have been distributed by the parties in making a compromise of matters in dispute, and the terms of said compromise,
1124–6 but they are not admitted to be true or correct for any other purpose.

7. Exhibit "G" shows correctly the amount of capital stock of the I., B. & W. Ry. Co. issued and outstanding on June 28, 1872, May 1, 1873, May 1, 1874, May 1, 1875, and amount issued since May 1, 1875; also amount of stock issued *by reason of extension* on May 1, 1873, May 1, 1874, and May 1, 1875, and subsequently.

8. Exhibit "H" shows the assessment of main line taxes in Illinois, by counties, as it is claimed by the county collectors, and as by them extended upon their books; but it is not admitted that this pretended assessment is legal or correct.

This schedule embraces 1873 to 1877 inclusive.

9. Exhibit "I" shows the assessment of extension taxes for years 1873 to 1877 inclusive, by counties, as it is claimed by county collectors, and as by county officials extended upon their
1124–7 books; but it is not admitted that this pretended assessment is legal or correct.

10. Exhibit "J" is the return of I., B. & W. Ry. Co. to State Auditor for year 1873, and shows that no part of extension was returned as *completed*, but that extension from Champaign to Havana was returned separately as new road not ballasted or used except by contractors; but said return is not admitted by main line to be true

11. Exhibits "K," "L," and "M" are certificates of the Audi-

tor of State for Dewitt, Piatt, and Champaign counties of the assessment by State board for year 1873.

12. Exhibits "N" and "O" are certificates from Auditor of State for Logan and Mason counties for year 1873.

12½. No part of the said alleged capital stock taxes assessed against either main line or extension have ever been paid by George B. Wright, receiver of the court, nor the said tangible property taxes assessed against the extension for 1873. Parties are not
1124–8 advised whether Smith, receiver, has paid any of said taxes or not.

12¾. All tangible property taxes assessed against the main line have been paid by the receiver, and properly charged to said main line in the distribution of disbursements.

13. This stipulation shall not be held or taken to prejudice either party's right to raise any question whatever which may arise on the facts, or inhere in them, or to deny the jurisdiction of the court over the subject-matter, or over the parties in respect to the matters in controversy in relation to said taxes. The extension claiming that by the terms of said stipulation the question of distribution between main line and extension of capital stock tax and of rolling stock tax prior to the receivership is, by agreement, especially and directly submitted to this court.

JULY 10, 1879.

J. D. CAMPBELL,
For Trustee and Bondholders Main Line.
1124–9 J. M. BUTLER,
For Trustees and Extension Bondholders' Com.

1124–10 *Exhibit "A."*

Cross-bill by Robert Turner and C. W. Smith, trustees of extension mortgage. Cause pending before the Honorable Thomas Drummond, circuit judge, holding court for the Southern District of Illinois and Indiana.

For the purpose of this preliminary hearing it is agreed that the testimony shows the following facts:

1. That the main line from Pekin to Indianapolis is a consolidation of the Indiana and Illinois corporation made in 1869.

That on the Illinois end is a mortgage for $2,000,000, date of April 1st, 1869. On the consolidated main line there is a mortgage for $3,000,000, dated 1st of October, 1869, and a second mortgage for $1,500,000 dated 1st October, 1870. Total, $6,500,000.

2. That there were two railroads authorized to be built by the State of Illinois, one running from the Mississippi River easterly through Havana and Champaign to some point connecting with the Toledo, Wabash and Western Railroad, the other running
1124–11 from Decatur northeasterly to Monticello and Champaign to some point on the Chicago, Danville and Vincennes Railroad in Iroquois county.

That on the 28th day of June, 1872, these two last named roads consolidated into the Havana, Mason City, Lincoln and Easterly Railway Company, and on the same day said consolidated company made a deed of all its property and franchises to the Indianapolis, Bloomington and Western Railway Company, which deed conveyed to the I., B. and W. Railway Company, the property and franchises of the grantor corporation, if it could legally be done. And on the same day, June 28th, 1872, the I., B. & W. Railway Company made a trust deed on the property, corporate rights and franchises of said purchased railroad to secure an issue of $5,500,000 of bonds.

3. That prior to the consolidation of the two companies forming the Havana, Mason City, Lincoln and Eastern Railway Company, each of said companies had made a contract for the con-
1124–12 struction of its line, Griggs, Smith & Company being the contractors on one line, and Smith, Griggs & Company on the other, and each line was partially constructed.

3. That on the 1st of July, 1872, the I., B. & W. Company owned and had on its line the following equipment, to wit:

Engines	38
Freight cars of all classes	676
Caboose cars	17
Passenger coaches	19
Smoking and baggage combined	3
Baggage, mail and express	6

And that the amount owned by the company and taken possession of by the receiver and inventoried by him, was—

Engines	45
Freight cars of all classes	644
Caboose cars	23
Passenger coaches	27
Smoking and baggage	3
Baggage, mail and express	10
Postal cars	2

Showing an increase of—

Engines	7
Caboose	6
Passenger	8
1124–13 Baggage, mail and express	4
Postal cars	2

And a decrease of—

Freight cars	32

That prior to 1st of July, 1872, there had been actually paid on equipment account the sum of $888,279.20. That after the 1st of July, 1872, and prior to taking possession by the receiver, there was paid the sum of $507,117.59, and that there remains wholly unpaid the sum of $48,789.61. That obligations for equipment owned by the company on the 1st of July, 1872, were then outstanding and unpaid for, but the specific amount so owned does not appear by the

evidence. That after the extension was taken from the contractors, the entire road was operated as a unit. That the earnings of both extension and main line went into the common treasury both before and since the possession by the receiver, but the receiver claims to have kept separate accounts.

4. That the $5,500,000 of extension bonds were disposed of as follows:

Paid to contractors on account of construction and extension	$2,118,000
Sold for cash and its equivalent	1,167,000
Sold and hypothecated as securities for loans	2,215,000
	$5,500,000

1124–14 That the $1,167,000 of bonds sold realized $878,495.77, which sum went into the general treasury of the I., B. & W. Company. That of the $2,215,000 of bonds sold and hypothecated to Turner Brothers and others, the sum of $148,000 currency was paid for interest coupons on extension bonds, and the sum of $594,000 was paid by Turner Brothers for interest coupons on main line bonds, which sum they advanced the company on pledge of extension bonds and the company's stock. There is no evidence as to what became of the stock. A. P. Lewis, treasurer, testifies that he has taken entries from the books of the railroad companies, showing where bonds were sold directly to Turner Brothers, which were used for the coupon interest, and also entries of loans made
1124–15 by them upon which collateral bonds were placed by the company and then sold. There are other entries, but not so distinct. These entries show that $350,000 gold and $180,000 currency as proceeds of sale and hypothecation of bonds were paid for interest on main line bonds, and that $130,755 gold, from the like sales and hypothecations, were paid for interest on extension bonds. The foregoing $350,000, $180,000, $130,655 are the same money spoken of in the preceding paragraph as $148,000 and $594,000, which two latter amounts are found in the testimony of Joseph S. Decker, one of the firm of Turner Brothers; of these $2,215,000 bonds, $1,310,000 were disposed of under said hypothecation for the sum of $609,567.50, of which $1,120,000 were taken by Turner's assignee at 50c. on the dollar in settlement with the company. The balance of these $2,215,000 bonds, to wit, 905,000, still remains under hypothecation.

The evidence shows that prior to the maturity of each
1124–16 coupon, before default was made, the railroad company advertised in the New York papers that the coupons of each series of bonds, main line and extension, would be paid on and after maturity at the office of Turner Brothers, 20 Nassau street, New York.

Joseph S. Decker, one of the firm of Turner Brothers, testifies that the coupons were paid over their counter in due course of busi-

ness; that the bondholders had no notice where the money came from; that thereafter the coupons were cancelled and returned to the company.

The evidence shows that the main line is $202\frac{3}{10}$ miles long, and the extension is $131\frac{7}{10}$. After the sale of extension bonds commenced, either in August or September, 1872, the sales of these bonds and the earnings were the sources of the means with which to pay the companies' liabilities; so far as disclosed by the evidence
1124–17 there was a floating debt, but just how much the evidence does not exactly disclose. Lewis says for $2,500,000. Referring to the $1,167,000 of bonds heretofore specified as sold for cash or its equivalent, and realizing $878,495.77, twelve were paid in kind at par for depot grounds at Urbana. This is the only amount directly and specifically traced in the evidence.

B. E. Smith testified as follows:

"I think we paid from the proceeds of the extension bonds nearly "$100,000 for rights of way on the main line, also fencing the main "line and for depot grounds, mostly at Indianapolis; $200,000 to "$300,000 for rolling stock and machinery. About $50,000 for bal- "lasting and new construction on the main line."

Some of B. E. Smith's questions and answers are as follows:

"Q.—Anything else besides interest and cars?

"A.—Yes, and for rights of way on the main line. I
1124–18 "think we paid nearly $100,000 for the rights of way on the "main line when I took the road.

"Q.—Anything else?

"A.—Yes, fencing the main line, depot grounds, mostly at Indian "apolis; $12,000 of the bonds were paid for the ground at Urbana.

"Q.—Are there any more particulars that you can recollect about "where that money went to?

"A.—No. I do not think of any.

"Q.—Was there any rolling stock other than cars?

"A.—I mentioned cars. I don't know that I can specify any "other particular items.

"Q.—Are there any entries in the books of the company showing "exactly what was done with the proceeds of these sold and hypothe- "cated bonds?

"A.—Yes.

"Q.—A complete record?

"A.—Yes."

Some of A. P. Lewis's, secretary and treasurer, questions and answers are as follows on cross-examination:

"Q.—Is it not true that the earnings on the main line,
1124–19 "gross earnings of the extension, and sale of the bonds and "everything else went into the general treasury of the "company?

"A.—It is.

"Q.—And the money was paid out regardless of what source it "came from?

"A.—Yes, sir.

"Q.—And there was never any attempt to keep a separate ac-
"count?

"A.—Not in my department.

Re-direct examination:

"Q.—Do you mean that all monies from earnings and bonds
"went into the general fund, was constantly being paid out for ma-
"chinery, rolling stock and so forth?

"A.—Yes, sir; they were continually paying out of the general
"fund.

"Q.—What is your best impression, whether any of this money
"went into the rolling stock or machinery?

"A.—Of course its proportion went in; everything went into the
"company fund, and the deeds and the debts were paid with it
without regard to where it came from."

1124–20 And on cross-examination:

"Q.—How did the road create this large floating debt?

"A.—By incomplete construction of the road; a large amount was
"used in perfecting its construction, repairing it, in the purchase of
"rolling stock and other improvements on the line.

"Q.—Well, what has become of its earnings, if you know?

"A.—It has been expended, as I have stated in the purchase of roll-
"ing stock and improvements on the property. Some money, not a
"large amount, was expended for right of way on the extension."

Lewis also testifies that about $100,000 was paid from the common treasury to the contractors of the extension, some of it after both roads were making earnings.

The evidence shows that no round-houses or shops or repair shops have been erected on the line of the extension and no allotment of any part of the equipment has been made to the extension.

1124–21 General Wright, Mr. Pease, superintendent, and Mr. Wood, assistant superintendent, testify that in their opinion it would be to the advantage of the property to sell the whole as a unit.

Some of Mr. Pease's testimony is as follows:

"Q.—Look at the report of General Wright now shown you and
"state what proportion of the earnings was made by the main line
"and what by the extension.

"A.—I could not tell what proportion.

"Q.—After examining that report can you tell, if the report is
"correct, what is the proportion?

"A.—I can figure it out.

"Q.—Figure it out and state it.

"A.—It would be between 1-8 and 1-9, about middle way."

The same witness testifies as follows:

"Q.—Isn't the main line on which you have made this computa-
"tion nearly as long again as the extension?

"A.—It is."

Witness further testifies in substance that the extension has been regarded and treated as only a part of a through line and
1124–22 had not been allowed local rates on freight going over its lines and passing east of its junction with the main line; that it has hauled more freight in proportion to the number of cars allotted to it and at less expense because it has easier grades; that the passenger business on the extension has been made secondary to freight, and has been purely local, having no Western connection.

That while the receiver has expended upon the main line, upon repairs, replacements and betterments, $595,544.18, he has expended on the extension for repairs, replacements and betterments $10,984.-89 only.

In addition to these figures the receiver enters as belonging to operating expenses the sum of $254,724.60, expended for new materials, etc. See page 18 of Second Annual Report.

J. B. BLOSSOM.
S. R. STONE.

1124–23 The gross earnings of the entire road which went into the common treasury form the 30th of June, 1872, up to the receivership were $3,871,422.23. The operating expenses, exclusive of car rental and track rental and Illinois taxes, were $2,444,-746.56, leaving $1,426,675.67.

The car rental above spoken of it is for 1174, track rental not known. During the same period there was paid for equipment $507,117.59, and for coupon interest, including $148,000 of extension bonds, the sum of about $1,200,000, making in the aggregate about $1,707,000, to which must be added for expenses on construction account the sum of $1,230,034.79, making a grand total of $2,937,000, showing during that period a deficiency of earnings of about $1,510,324.

The first consolidated mortgage on the main line shows upon its face that $1,500,000 were paid to "purchase equipment," and the second mortgage on the main line for $1,500,000 shows on the face that it was to "purchase equipments, and for other pur-
1124–24 poses," and all of both these classes of bonds, as well as the D. U. B. & P. bonds were sold and disposed of prior to the issue of the extension bond.

The resolutions authorizing the extension mortgage and embodied in the mortgage say that the mortgage was issued for the purpose of building and equipping the extension line.

J. M. BUTLER,
For extension bondholders.

R. E. WILLIAMS,
For F. L. & T. Co.

Exhibit B.

Agreement dividing rolling stock, &c., July 14, 1877.

This agreement, made and entered into this 14th day of July, A. D. 1877, by and between the Farmers' Loan and Trust Company of New York, trustee named in the trust deed of the Danville, Urbana, Bloomington and Pekin Railroad Company, and the trustee named in the first consolidated trust deed of the Indianapolis, Bloomington and Western Railway Company, and the bondholders' committee of the Indianapolis, Bloomington and Western Railway main line, parties of the first part, and Charles W. Smith and Robert Turner, trustees of the extension trust deed of the Indianapolis, Bloomington and Western Railway Company, and the bondholders' committee of said extension of the Indianapolis, Bloomington and Western Railway parties, of the second part—

Witnesseth, That for and in consideration of a full and final settlement of all controversy and litigation between said
1124–26 parties regarding the rolling stock and equipment now in possession of said receiver, George B. Wright, and owned by the said Indianapolis, Bloomington and Western Railway Company;

And for the purpose of a full, final and equitable apportionment, division and distribution of said rolling stock and equipment between the main line and the part of said railway known as the extension, it is hereby contracted and agreed by and between said first and second parties, that of said rolling stock and equipment the extension shall have, receive and hold as the separate property of and belonging to said extension the following described rolling stock and equipment, designated as follows, to wit:

Six locomotive engines and tenders, now known and designated by the numbers 11, 31, 32, 33, 40 and 41.

Four passenger coaches, now known and designated by the numbers 9, 11, 15, 21.

Three baggage, mail and express cars, now known and
1124–27 designated by the numbers 3, 4, 8.

Twenty-nine box-cars, now known and designated by the numbers 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 734, 736, 738, 740, 744, 746, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770.

Fourteen stock cars, now known and designated by the numbers 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 430, 432, 434.

Twenty-two coal-cars, now known and designated by the numbers 301, 305, 307, 309, 311, 313, 315, 319, 321, 323, 325, 327, 329, 331, 333, 335, 339, 341, 343, 345, 347, 349.

Twelve flat-cars, now known and designated by the numbers 83, 91, 97, 99, 101, 103, 963, 847, 383, 385, 387, 389.

Nine hand-cars marked and designated by A. H. Wood, superintendent of extension, in white paint, "Ex." Nos. 1 to 9 inclusive.

Nine rubble cars, marked and designated by A. H. Wood, superintendent of extension, in white paint, "Ex." Nos. 1 to 9 inclusive.

One boarding-car now known and designated as follows:
1124–28 No. 6.

Two caboose-cars now known and designated as follows: Nos. 11 and 12.

Two pilot-caboose cars now known and designated as follows: Nos. 24 and 25.

All of above engines and cars of each description to have their ordinary and usual complement and outfit of tools, lanterns, &c.

It is further agreed that all track and section tools and supplies in use and distributed on the main line and extension respectively, for use at the time either line shall be taken possession of under foreclosure sale, shall remain as distributed at that time, and shall hereby be and become the property of the line or road on which they are then distributed for use.

It is further agreed that all tools and supplies in store and in the charge and possession of the store-keepers of the Indianapolis, Bloomington and Western Railway Company, or of the receivers of said company in the store-houses and places kept and provided
1124–29 for the purpose of keeping supplies, tools, &c., at the time that either line shall be taken into possession by the purchaser at a foreclosure sale of either line, shall be an asset of the main line, and in the final adjustment of accounts between the main line and extension, the main line shall be chargeable with the cost of all such supplies, tools, &c., then in store and undistributed.

It is further hereby contracted and agreed by and between the parties hereto, that the main line shall in the adjustment of accounts between said main line and extension be charged with all the costs and expenses heretofore incurred in changing passenger coaches numbered 24, 25, 26 and 27 from ordinary coaches into chair cars.

And said main line shall also be charged with all cost and expense heretofore incurred in changing ordinary flat cars into
1124–30 dumps, in said final adjustment of accounts between said main line and said extension.

It is further agreed by the parties hereto that the use and possession of the within above mentioned rolling stock and equipment by George B. Wright, receiver for both the main line and extension, shall be and remain undisturbed, and the method of keeping the separate accounts with each line shall remain unchanged until either the main line or the extension is taken out of the possession of said receiver by sale on foreclosure or by order court.

It is further agreed that the 500 box cars purchased by the receiver under order of court, and known as the Oliver Adams contract cars, are an asset of the main line, and the main line is to

be charged with all the cost and expense connected with the purchase of said cars.

R. E. WILLIAMS,
Atty. for F. L. and T. Co. by Josiah T. Blossom.
JOSIAH T. BLOSSOM,
for Main Line Committee.
McDONALD & BUTLER,
1124–31 *Attys. for Turner and Smith, Trustees Extension Trust Deed.*
SUMNER R. STONE,
for Ex. Committee, by McDonald and Butler.

1124–32 EXTENSION TAX CASE.

Exhibit C.

Secretary and Treasurer's Statement of Completion of Extension and Decatur Branch.

Statement made at the request of Messrs. McDonald & Butler.

The extension was accepted by the company from the contractors on December 23, 1873, and settlement therefor agreed upon.

Trains were running to Havana April 1st, 1873.

The Decatur Branch was accepted by the company from the contractors on December 23, 1873.

Trains were running to Decatur at that time.

I have been the secretary and treasurer of the Indianapolis, Bloomington and Western Ry. Co. from its organization in September, 1869, to the present date continuously.

A. P. LEWIS.

INDIANAPOLIS, IND., July 7th, 1879.

1124–33 EXTENSION TAX CASE.

Exhibit D.

Engineer's Certificate of Completion of Extension and Decatur Branch.

URBANA, ILL., Dec. 23, 1873.

B. E. SMITH, ESQ., Pres't I. B. & W. Ry. Co.

DEAR SIR: I hereby certify that the work on the Havana, Mason City, Lincoln and Eastern Railway has been completed as far as Havana from its junction with the Monticello R. R. at Whiteheath, and that it fills the contract as a first-class Western railroad, with side tracks, water stations and depots as per contract.

Length of main track	85.50 ms.
" " side "	5.00
Total	90.50

I also certify that the Monticello railroad has been completed as

per contract from Champaign to the junction with the
1124–34 Illinois Central railroad at Decatur.

Length of main track	45.3 ms.
" " side "	2.7
Total	48.0

There is lacking on this branch 5 station houses, due under the contract. But the contractors have turned over to the company tools, iron and ties ample to compensate for the station buildings not built.

Respectfully,

JAS. B. ALEXANDER, *Eng'r.*

1124–35 EXTENSION TAX CASE.

Exhibit E.

Length of the Indianapolis & Western Railway, Main Track and Sidings.

Main Line.

In Indiana.		Miles.
Main track I. & St. L. junction to Beckwith	$79\frac{1}{10}$	
Side track	$15\frac{3}{10}$—	$94\frac{4}{10}$
" " Dec. 1st, 1874, $12\frac{1}{10}$ ms.		
In Illinois.		
Main track, Beckwith to Pekin	$122\frac{3}{10}$	
Side track	$20\frac{2}{10}$—	$142\frac{5}{10}$
" " Dec. 1st, 1874, $16\frac{1}{10}$ ms.		
Total		$236\frac{9}{10}$

Extension.

Main track, Champaign to Havana	$100\frac{5}{10}$	
" " Whiteheath to Decatur	$30\frac{9}{10}$	
Side track	$8\frac{9}{10}$—	$140\frac{3}{10}$
Dec. 1st, 1874, $8\frac{3}{10}$.		
Total		$140\frac{3}{10}$
Total, main track and sidings, miles		$377\frac{2}{10}$

C. KELSEY, *Auditor.*

INDIANAPOLIS, Dec. 16, '78.

1124–36 EXTENSION TAX CASE.

Exhibit "F."

Statement showing how the freight earnings of the extension have been made from December 1st, 1874.

Local.—All revenue from freight manifested between stations on the extension has been credited direct to extension earnings.

Joint earnings.—All revenue from freight manifested between stations on extension and stations on main line, divided upon the actual mileage, and each line credited with its proportion.

Foreign freight.—All freight manifested between stations on the extension and stations on other railroads, the I. B. & W. Ry's proportion of the through revenue credited to the extension, when the freight does not pass over the main line.

When freight passes over both main line and extension, the extension is credited with its proportion of I. B. & W. Ry's pro-
1124–37 portion of through revenue based on actual mileage.

C. KELSEY, *Auditor.*

Statement of the number of locomotives used by the extension, not including one switch locomotive, charged each month in the accounts for the four years ending November 30th, 1878:

Months.	1874 & 1875.		1875 & 1876.		1876 & 1877.		1877 & 1878.	
December...	4	Locomotives.	4	Locomotives.	6	Locomotives.	5	Locomotives.
January...	4	do	5	do	5	do	6	do
February...	4	do	5	do	6	do	5	do
March...	4	do	5	do	5	do	6	do
April...	5	do	6	do	6	do	5	do
May...	6	do	6	do	6	do	5	do
June...	5	do	5	do	5	do	5	do
July...	5	do	5	do	6	do	5	do
August...	5	do	7	do	6	do	5	do
September...	4	do	5	do	6	do	5	do
October...	4	do	5	do	5	do	6	do
November...	5	do	5	do	5	do	5	do

C. KELSEY, *Auditor.*

Exhibit "X."

Stipulation as to Receiver's Debt.

It is hereby stipulated and agreed by and between Austin
1124–38 Corbin, Giles E. Taintor, and Josiah B. Blossom, committee of the holders of the bonds of the Danville, Urbana, Bloomington and Pekin Railroad Company, and of the main line of Indianapolis, Bloomington and Western Railway Company, of the one part, and Sumner R. Stone, P. C. Calhoun, H. K. Thurber, F. D. Tappan and John Welsh, Jr., committee of the holders of the extension bonds of the Indianapolis, Bloomington and Western Railway Company of the other part, as follows, that is to say: That for and in consideration of, and as and for a full and final settlement of all matters in controversy between the said parties, concerning the matters and things hereinafter mentioned, and as and for a full and final adjustment, division and distribution of the accounts of George B. Wright, receiver, of the earnings and expenses
1124–39 of his trust, included and shown in the annexed schedules, up to and including the thirtieth day of November, A. D. 1878—

First. The accounts of the said receiver for earnings and expen-

ses up to and including the said thirtieth day of November, A. D. 1878, as the same appear in the schedules hereunto annexed, are by agreement of the said parties to produce a net debit against the said extension of forty-three thousand six hundred and seventeen dollars ($43,617), and the accounts of the receiver of his receipts and disbursements are to be adjusted accordingly as between the said main line and extension.

Second. All taxes, whether since the receivership or prior thereto, are to be paid, adjusted, and distributed between the said main line and extension in the manner following, that is to say:

1st. All tangible property taxes, except taxes on rolling stock, are to be paid by said lines respectively as the same are
1124–40 assessed; that is to say, each line to pay such taxes upon tangible property, except rolling stock taxes, as are assessed against it, reserving, however, to the said extension the right to contest all the taxes of 1873, if so advised.

2nd. Rolling stock taxes, which have become a charge upon the property in the hands of the receiver since the receivership, to be paid and adjusted as follows, to wit: The main line to pay all rolling stock taxes in Indiana, and the main line and extension to pay the rolling stock taxes in the proportion in which they own said rolling stock respectively taxable in Illinois, without reference to the line on which the same are assessed.

3rd. All capital stock taxes and rolling stock taxes prior to the receivership to be paid and adjusted as between said main line and extension as may be hereafter determined by the court on the submission of the matters in controversy between said parties
1125–41 in respect thereto, each of said parties hereby agreeing to facilitate a hearing thereon by all proper means. It being understood, however, that said parties are to be at liberty to contest the said taxes, and shall unite in contesting the said taxes so far as the same may be properly done.

Third. The controverted claim of the Western Car Company against the receiver, included in the "Holstein reference," so called, and the claim of the Rogers Locomotive and Machine Works, when the amounts shall be finally determined, if anything, shall be paid as follows, viz., 40-46 thereof by the said extension, and the accounts of the receiver of his receipts and disbursements shall be adjusted accordingly.

Fourth. Such of the liabilities of the said railway as may be ultimately established against the trust (commonly called six months' claims) to be paid and distributed as follows, as between said main line and extension, as follows, to wit:

1124–42 1st. Such of said claims as are for rentals of rolling stock and maintenance of same shall be paid 40-46 by the main line and 6-46 by the extension.

Right to each party to contest as in clause about taxes.

2nd. Such of said claims as are carried in "general expense" ac-

counts to be paid eighty-five per cent. by said line, and fifteen per cent. by the extension.

3rd. The balance of said claims to be paid by said extension and main line respectively as service may appear.

Fifth. It is further stipulated and agreed that the matter in controversy between the said main line and extension regarding the removal of a certain freight house and portions of the track of said extension near Champaign, Illinois, shall be with all convenient speed submitted to the court for final settlement and adjustment.

Sixth. It is further stipulated and agreed between the parties hereto, that nothing in the stipulation and agreement shall in any manner abrogate, change, or modify the stipulation and
1124–43 agreement made and entered into by and between the parties hereto July 14, 1877, providing for a division of the rolling stock and equipments between said main line and extension, but the same shall be and remain in full force and effect, except that it is hereby agreed that the stipulation contained in said agreement of July 14, 1877, providing that all stores and supplies in store and purchased by the receiver, and not distributed and charged to the respective lines at the time that either line shall be taken possession of by purchasers at foreclosure sale, shall be charged against and become the property of the main line, shall be and remain in full force, and shall take effect according to the spirit thereof, whenever said liens shall be and become separated in their operation, control and management, whether said separation shall arise from possession taken by purchasers at foreclosure sale, or otherwise.

1124–44 *Seventh.* This stipulation is entered into on the strength and faith of the mutual understanding of the parties that all indebtedness and expenses of the receivership of every kind and nature whatever is included in the statements of the receiver of his earnings and expenses up to and including November 30, 1878, a copy of which is hereto attached and made a part hereof, except matters pertaining to the following:

Claims of the Rogers Locomotive and Machine Works.

Disputed claims of Western Car Co. (Holstein reference.)

Illinois taxes.

Special tax certificates and interest on same.

Interest on pay-roll certificate.

Interest on special loans, pay-rolls.

Balances to and from foreign roads.

Vouchers not yet returned, and unadjusted matters of I. B. & W. Railway Company.

And in respect thereto, so far as the same are not hereinbefore provided for and agreed upon the faith of the before-mentioned
1124–45 mutual understanding, it is agreed and stipulated as follows, that is to say:

1. As to the said special tax certificates and the interest thereon, the same shall be respectively charged to and assumed or paid by the said lines respectively in the proportion in which they shall be

EXHIBIT "X—1."

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY.

Statement of Earnings and Expenses.

EARNINGS.	For the year ending Nov. 30, 1875.			For the year ending Nov. 30, 1876.			For the year ending Nov. 30, 1877.			For the year ending Nov. 30, 1878.		
	As per Receiver's Accounts.		TOTAL.	As per Receiver's Accounts.		TOTAL.	As per Receiver's Accounts.		TOTAL.	As per Receiver's Accounts.		TOTAL.
	MAIN LINE.	EXTENSION.		MAIN LINE.	EXTENSION.		MAIN LINE.	EXTENSION.		MAIN LINE.	EXTENSION.	
Freight	$709,470 82	96,461 97	805,932 79	853,250 54	121,776 37	975,026 91	672,656 01	94,088 53	766,744 54	742,529 20	92,621 01	835,150 21
Passenger	360,035 60	49,537 67	409,573 27	375,936 14	55,889 38	431,825 52	331,109 94	42,623 76	373,733 70	309,659 12	37,382 58	347,041 70
United States Express Co	8,279 22	936 59	9,215 81	7,965 02	976 70	8,941 72	6,996 13	1,012 73	8,008 86	6,635 07	724 96	7,360 03
United States Mail	37,135 00	5,402 00	42,537 00	28,054 60	7,754 90	35,809 50	20,331 98	5,619 22	25,951 20	20,009 14	5,808 08	25,817 22
Chair Cars				4,565 24		4,565 24	3,804 97		3,804 97	4,956 00		4,956 00
Miscellaneous and Rents	69,670 11		69,670 11	102,249 00		102,249 00	102,997 36		102,997 36	14,768 60	10 00	14,778 60
Foreign Mileage										105,396 06		105,396 06
Total	$1,184,590 75	$152,338 23	$1,336,928 98	$1,372,020 54	$186,397 35	$1,558,417 89	$1,137,896 39	$143,344 24	$1,281,240 63	$1,203,953 19	$136,546 63	$1,340,499 82
OPERATING EXPENSES.												
Advertising	5,346 22	96 37	5,442 59	5,922 83	18 75	5,941 58	1,390 20		1,390 20	1,373 57		1,373 57
Agencies Foreign Freight	7,930 87	122 53	8,053 40	6,663 69	530 89	7,194 58	6,265 69	80 74	6,346 43	6,165 78	125 72	6,291 50
do do Passenger	656 74		656 74	1,595 00		1,595 00	5,968 86		5,969 86	3,683 92		3,683 92
Chair Cars—Expenses				7,698 30		7,698 30	2,895 87		2,895 87	2,683 13		2,683 13
Conductors, Baggage Masters, & Brakemen	80,551 75	10,028 82	90,580 57	93,435 94	12,113 06	105,549 00	69,883 33	9,175 00	79,058 33	70,408 74	8,539 65	78,948 39
Damage to Persons and Baggage	3 322 77	71 50	3,394 27	1,063 95	48 75	1,112 70	1 25	78 50	79 75	288 31		288 31
Engineers and Firemen	88,220 50	14,153 62	102,374 12	102,169 15	14,387 85	116,557 00	66,545 39	10,349 50	76,894 89	66,107 70	10,348 35	76,456 05
Engine Houses M. S. & T. T. Exps. & Repairs	5,064 96	227 31	5,292 27	3,199 18	498 90	3,698 08	1,931 10	177 03	2,108 13	2,647 98	1,608 88	4,256 86
Fuel and Water Stations, do	15,001 72	3,330 32	18,332 04	14,860 70	3,418 50	18,279 20	14,818 91	3,201 12	18,020 03	13,715 82	4,092 70	17,808 52
Freight Correction	9,592 72	653 68	10,246 40	20,019 19	1,177 56	21,196 75	15,048 90	310 20	15,359 10	35,426 42	2,979 29	38,405 71
Fuel for Locomotives	70,851 31	12,403 29	83,254 60	91,410 12	15,184 50	106,594 62	62,483 59	11,884 81	74,368 40	57,334 04	9,702 57	67,036 61
General Expenses	41,017 23	12,562 45	53,579 68	47,269 83	13,308 84	60,578 67	58,876 35	24,854 78	83,731 13	45,422 44	14,365 39	59,787 83
Grigg's House, Repairs of	448 33		448 33	2,283 84		2,283 84	649 73		649 73	971 85		971 85
Insurance	1,727 50		1,727 50	4,309 64		4,309 64	3,314 41	243 00	3,557 41	2,776 92	181 80	2,958 72
Interest and Discount	1,296 88		1,296 88	9,938 57		9,938 57	20,147 92		20,147 92	17,067 99	2,000 00	19,067 99
Loss and Damage—Freight	6,554 55	73 88	6,628 43	2,429 96	40 98	2,470 94	1,909 67	10 12	1,919 79	1,254 70	203 40	1,458 10
Legal Expenses	11,251 53	505 76	11,757 29	5,985 30	1,225 45	7,210 75	7,292 82	2,730 17	10,082 99	6,671 09	4,113 30	10,784 39
Maintenance of Cars	79,967 45	6,939 44	86,906 89	58,961 87	8,168 92	67,130 79	28,591 67	6,557 13	35,148 20	61,382 95	10,362 73	71,745 69
do Rented Cars	16,068 91		16,068 94	43,090 03		43,191 03	31,889 88		31,889 88	20,926 37		20,936 37
do Motive Power	60,553 68	90,005 03	69,558 71	83,658 18	12,062 81	95,720 99	70,404 08	9,349 09	79,798 17	62,020 69	9,205 71	71,226 40
do Road	153,250 02	35,471 71	188,721 73	218,240 51	47,558 15	265,798 66	157,024 95	54,575 80	211,600 75	184,728 82	68,020 18	252,749 00
do Telegraph	1,557 10	433 30	1,990 40	1,499 33	347 52	1,846 85	1,360 50	340 25	1,700 75	1,436 75	225 00	1,661 75
do Fences	486 36		486 36	2,554 13	479 57	3,033 70	2,571 06	449 65	3,020 71	2,556 29	256 69	2,812 98
do Buildings	4,590 61	338 58	4,929 19	5,280 06	479 89	5,759 95	1,034 64	603 82	1,638 46	3,825 88	1,710 79	5,536 07
do Bridges	31,886 33	912 24	32,798 57	32,369 75	3,672 02	36,041 77	25,993 17	1,394 89	27,388 06	41,102 08	2,521 93	43,624 01
Miscellaneous	2,061 38	73 92	2,155 30	1,289 86		1,289 86	1,482 30		1,482 30	1,514 50	600 00	2,114 50
Printing and Stationery	7,188 99	2,130 26	9,319 25	7,569 17	1,711 65	9,280 82	6,134 64	1,889 95	8,024 59	6,023 87	1,545 00	7,568 87
Passenger Correction	202 55		202 55	4,900 55		4,900 55	5,134 10		5,134 10	5,702 20		5,702 20
Station Service	71,261 58	9,527 54	80,789 12	70,574 21	12,189 45	82,763 66	65,803 06	9,845 12	75,648 18	68,370 13	10,531 17	78,901 30
Stock Killed	6,587 86	807 10	7,394 96	8,074 20	839 32	8,913 52	3,118 25	223 85	3,442 10	3,147 65	554 00	3,701 65
Train Service	17,369 96	1,920 98	19,290 94	34,540 89	4,389 71	38,930 60	21,577 02	5,145 32	26,722 34	24,014 72	5,922 58	29,937 30
Telegraph Service	20,320 24	3,291 82	23,612 06	21,975 25	4,413 42	26,388 67	17,753 37	4,273 83	22,027 20	18,285 77	4,580 87	22,866 64
Taxes	17,778 33	143 50	17,921 83	9,338 40	10 30	9,348 70	9,031 37	192 47	9,223 84	9,183 95	12 00	9,195 95
				5,344 88	Sleeping cars	5,344 88						
Use of Cars (Mileage)										33,787 95		33,787 95
Peoria Bridge	1,060 16		1,060 16									
Sleeping Cars	5,193 50		5,193 50									
Mail Service	500 00		500 00									
Profit and Loss	200 44		200 44							193 58		193 58
Indianapolis Round House	166 91		166 91	5,920 52		5,920 52				20,581 00	Ind's Tr. Ac.	20,581 00
Total	$847,107 97	$125,224 95	$972,332 92	$1,035,438 08	$158,276 76	$1,193,714 84	$788,328 45	$158,201 14	$946,529 59	$902,784 96	$174,309 70	$1,077,094 66
CHARGEABLE TO INCOME ACCOUNT BUT NOT OPERATING EXPENSES.												
Car Rental	116,800 00	17,189 31	133,989 31	127,160 00	22,586 75	149,746 75	69,111 65	17,845 73	86,957 38	43,305 68	16,256 00	59,561 68
Locomotive Rental		9,474 00	9,474 00	17,879 17	11,880 00	29,759 17	1,050 00	10,275 00	11,325 00		9,790 00	9,790 00
Track Rental	59,137 45		59,137 45	48,937 23		48,937 23	48,345 54		48,345 54	49,897 40		49,897 40
Total	$175,937 45	$26,663 31	$202,600 76	$193,976 40	$34,466 75	$228,443 15	$118,507 19	$28,120 73	$146,627 92	$93,203 08	$26,046 00	$119,249 08
Total to Income Account	$1,023,045 42	$151,888 26	$1,174,933 68	$1,229,414 48	$192,743 51	$1,422,157 99	$906,835 64	$186,321 87	$1,093,157 51	$995,998 04	$200,355 70	$1,196,243 74
IMPROVEMENT AND BETTERMENTS TO PROPERTY.												
Right of Way	17,003 02	2,650 55	19,653 57	5,679 16	2,920 84	8,600 00	5,381 15	1,402 46	6,783 61	3,540 62	38 94	3,579 56
New Work	3,100 45	1,800 00	4,900 45	15,328 60	375 45	15,704 05	1,660 90	591 49	2,252 39	10 00		10 00
New Employment	1,850 00		1,850 00	52,221 32		52,221 32	1,000 00		1,000 00			
do do (Oliver Adams's Contract)				13,875 69		13,875 69	32,613 62		32,613 62	52,613 62	50,893 19	50,893 19
Extraordinary Repairs to Cars	37,140 02		37,140 02				To Bridges.	Extr. Repa.				
" " " Motive Power	33,122 18		33,122 18				9,608 73	135 21	9,743 94			
" " " Road	311,274 17		311,274 17	56,626 13	509 42	57,135 55	7,129 58		7,129 58			
Total	$403,489 84	$4,450 55	$407,940 39	$143,730 90	$3,805 71	$147,536 61	$77,393 98	$2,129 16	$79,523 14	$54,443 81	$38 94	$54,482 75
Grand Total of all Expenses	$1,426,535 26	$156,338 81	$1,582,874 07	$1,373,145 38	$196,549 22	$1,569,694 60	$984,229 62	$188,451 03	$1,172,680 65	$1,050,431 85	$200,394 64	$1,250,826 49
Deficit	$241,944 51	$4,000 58	$245,945 09	$1,124 84	$10,151 87	$11,276 71	Net. $153,666 77	Def. $45,106 79	Net. $108,559 98	Net. $153,521 34	Def. $33,848 01	Net. $89,673 33

EXHIBIT "X 2."

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY.

Statement of Earnings and Expenses.

EARNINGS.	For the year ending Nov. 30, 1875, on basis of 6-46 to Extension.			For the year ending Nov. 30, 1876, on a basis of 6-46 to Extension.			For the year ending Nov. 30, 1877, on a basis of 6-46 to Extension.			For the year ending Nov. 30, 1878, on a basis of 6-46 to Extension.		
	MAIN LINE.	EXTENSION.	TOTAL.	MAIN LINE.	EXTENSION.	TOTAL.	MAIN LINE.	EXTENSION.	TOTAL.	MAIN LINE.	EXTENSION.	TOTAL.
Freight	$700,839 15	$105,093 64	805,932 79	$874,833 40	$127,143 61	$975,026 91	$666,761 05	$99,983 49	$766,744 54	$726,246 62	$108,903 50	$835,150 21
Passenger	356,164 92	53,408 35	409,573 27	375,515 47	56,310 05	431,825 52	324,998 83	48,734 87	373,733 70	301,787 46	45,254 24	347,041 70
United States Express Co	8,014 07	1,201 74	9,215 81	7,775 72	1,116 00	8,941 72	6,964 51	1,044 35	8,008 86	6,400 28	959 75	7,360 03
United States Mail	36,990 18	5,546 82	42,537 00	31,139 94	4,669 56	35,809 50	22,567 16	3,384 04	25,951 20	22,450 65	3,366 57	25,817 22
Chair Cars				3,969 93	593 31	4,563 24	3,308 80	496 17	3,804 97	4,309 74	646 26	4,956 00
Miscellaneous and Rents	12,410 41	1,620 39	14,030 80	7,511 72	436 63	7,948 35	4,733 21	35 79	4,769 00	4,880 33	108 27	4,988 60
Foreign Mileage	37,003 07	5,548 76	42,551 83	56,258 09	8,436 13	64,694 22	64 617 21	9,689 61	74,306 82	81,142 60	12,167 66	93,310 26
Total	$1,151,421 80	$172,419 70	$1,323,841 50	$1,330,054 27	$198,757 19	$1,528,811 46	$1,093,950 77	$163,368 32	$1,257,319 09	$1,147,217 68	$171,406 34	$1,318,624 02
OPERATING EXPENSES.												
Advertising	4,732 88	709 71	5,442 59	5,166 80	774 78	5,941 58	1 208 92	181 28	1,390 20	1,194 46	179 11	1,373 57
Agencies, Foreign Freight	7,003 24	1,050 16	8,053 40	6,256 41	938 17	7,194 58	5,518 86	827 57	6,346 43	5,471 09	820 41	6,291 50
do do Passenger	571 10	85 64	656 74	1,387 01	207 99	1,593 00	5,191 39	778 47	5,969 86	3,203 54	480 38	3,683 92
Chair Cars—Expenses				7,241 13	547 17	7,698 30	2,518 25	377 62	2,895 87	2,333 25	349 88	2,683 13
Conductors, Baggage Masters, and Brakemen	80,551 75	10,028 82	90,580 57	93,435 94	12,113 06	105 549 00	69,883 33	9,175 00	79,058 33	70,408 74	8,539 65	78,948 39
Damage to Persons and Baggage	3,322 77	71 50	3,394 27	1,063 95	48 75	1,112 70	1 25	78 50	79 75	288 31		288 31
Engineers and Firemen	88,220 50	14,153 62	103,374 12	102,169 15	14,387 85	116,557 00	66,545 39	10,349 50	76,894 89	66,107 70	10,348 35	76,456 05
Engine Houses M. S. & T. T., Exps. and Repairs	5,064 96	227 31	5,292 27	3,199 18	498 90	3,698 08	1,931 10	177 03	2,108 13	3,647 98	1,608 88	4,256 86
Fuel and Water Stations, do	15,001 72	3,330 32	18,332 04	14,860 70	3,418 50	18,279 20	14,818 91	3,201 12	18,208 03	13,715 82	4,092 70	17,808 52
Freight Corrections	8,910 27	1,336 13	10,246 40	18,432 69	2,764 06	21,196 75	13,356 27	2,002 83	15,359 10	33,397 61	5,008 10	38,405 71
Fuel for Locomotives	70,851 31	12,403 29	83,254 60	91,410 12	15,184 50	106,594 62	62,483 59	11,884 81	74,368 40	57,334 04	9,702 57	76,036 61
General Expenses	46,592 89	6,986 79	53,579 68	52,679 30	7,899 47	60,578 77	72,812 59	10 918 54	83,731 13	51,991 50	7,796 33	59,787 83
Grigg's House, Repairs of	448 33		448 33	2,283 84		2,283 84	649 73		649 73	971 85		971 85
Insurance	1,718 05	9 45	1,727 50	3,942 34	367 30	4,309 64	3,314 41	243 00	3,557 41	2,694 12	264 60	2,958 72
Interest and Discount	1,267 95	28 93	1,296 88	9,722 43	216 14	9,938 57	19,833 73	314 19	20,147 92	16,266 65	2,801 34	19 067 99
Loss and Damage—Freight	5,764 08	864 35	6,628 43	2,148 73	322 21	2,470 94	1,669 45	250 34	1,919 79	1,267 96	190 14	1,458 10
Legal Expenses	10,224 14	1,533 15	11,759 29	6,270 47	940 28	7,210 75	8,768 17	1,314 82	10,082 99	9,378 11	1,406 28	10,784 39
Maintenance of Cars	75,574 24	11,332 66	86,906 89	58,376 93	8,754 86	67,130 79	30,564 87	4,583 33	35,148 20	62,380 05	9,355 64	71,745 69
do Rented Cars	13,973 55	2,095 39	16,068 94	37,471 96	5,619 07	43,091 03	27,731 44	4,158 44	31,889 88	18,197 57	2,728 80	20,936 37
do Motive Power	68,726 84	10,305 87	79,032 71	93,569 82	14,031 17	107,600 99	69,352 49	10,405 68	79,798 18	61,938 48	9,287 92	71,226 40
do Road	153,250 02	35,471 71	188,721 73	218,240 51	47,558 15	265,798 66	157,024 95	54,575 80	211,600 75	184,728 82	68,020 18	252,749 00
do Telegraph	1,557 10	433 30	1,990 40	1,499 33	347 52	1,846 85	1,360 50	340 25	1,700 75	1,436 75	225 00	1,661 75
do Fences	486 36		486 36	2,554 13	479 57	3,033 70	2,571 06	449 65	3,020 71	2,556 29	256 69	2,812 98
do Buildings	4,590 61	338 58	4,929 19	5,280 06	479 89	5,759 95	1,034 64	663 82	1,698 46	3,828 28	1,710 79	5,536 07
do Bridges	31,666 33	912 24	32,798 57	32,369 75	3,672 62	36,041 77	25,993 17	1,394 89	27,388 06	41,102 08	2,521 93	43,623 01
Miscellaneous	2,081 38	73 92	2,155 30	1,289 86		1,289 86	1,482 30		1,482 30	1,514 50	600 00	2,114 50
Printing and Stationery	7,188 99	2,130 26	9,319 25	7,560 17	1,711 65	9,280 82	6,134 64	1,889 95	8,024 59	6,023 87	1,545 00	7,568 87
Passenger Correction	176 14	26 41	202 55	4,261 52	639 03	4,900 55	6,464 61	669 49	5,134 10	4,958 63	743 57	5,702 20
Station Service	71,261 58	9,527 54	80,789 12	70,574 21	12,189 45	82,763 66	65,803 06	9,845 12	75,648 18	68,370 13	10,531 17	78,901 30
Stock Killed	6,587 86	807 10	7,394 96	8,074 20	839 32	8,913 52	3,118 25	323 85	3,442 10	3,147 65	554 00	3,701 65
Train Service	21,471 79	1,920 98	20,392 77	27,521 21	4,389 71	31,910 92	25,776 21	5,145 32	30,921 53	24,014 72	5,922 58	29,937 30
Telegraph Service	20,320 24	3,291 82	23,612 06	21,975 25	4,413 42	26,388 67	17,753 37	4,273 83	22,027 20	18,285 77	4,580 87	22,866 64
Taxes, Indiana	17,364 92	413 41	17,778 13	9,134 16	204 24	9,338 40	8,835 45	195 92	9,031 37	8,984 79	199 16	9,183 95
" Decatur		143 50	143 50		10 30	10 30		192 47	192 47		12 00	12 00
Use of Cars (Mileage)										33,008 41	4,949 74	37,958 15
Profit and Loss	200 44		200 44							168 33	25 25	193 58
Indianapolis Round House	166 91		166 91	5,290 52		5,920 52				Ind's Tr. Ac.		
Peoria Bridge	921 92	138 24	1,060 16							20,581 00		20,581 00
Sleeping Cars	4,516 27	677 23	5,193 50	4,647 91	696 97	5,344 88						
Mail Service	434 80	62 50	500 00									
Total	$852,984 22	$924 53	$985,908 75	$1,032,000 69	$166,574 47	$1,198,575 16	$799,546 35	$151,182 43	$950,728 78	$903,905 85	$107,359 01	$1,081,264 86
CHARGEABLE.												
Car Rental	101,569 28	15,230 72	116,800 00	110,578 34	16,581 66	127,160 00	60,099 49	9,012 16	69,111 65	37,658 62	5,647 06	43,305 68
Locomotive Rental				15,547 73	2,331 41	17,879 17	913 08	136 92	1,050 00			
Car Rental, Oliver Adams											6,636 47	6,636 47
Track Rental	51,425 93	7,711 52	59,137 45	42,555,82	6,381 41	48,937 23	42,011 28	6,304 36	48,345 54	43,390 77	6,506 63	49,897 40
Car Rental, 6 Adams Cars					1,809 39	1,809 39		6,860 82	6,860 82			
Total	$152,995 21	$22,942 24	$175,937 45	$168,681 89	$27,103,90	$195,785 79	$103,053 85	$22,314 16	$125,368 01	$81,049 39	$18,790 16	$99,839 55
Total to Income Account	$1,005,979 43	$155,866 77	$1,161,846 20	$1,200,682 58	$193,678 37	$1,394,360 95	$802,600 20	$173,496 59	$1,076,096 79	$984,955 24	$196,149 17	$1,181,104 41
Right of Way	17,003 02	2,650 55	19,653 57	5,679 16	2,920 84	8,600 00	5,381 15	1,402 46	6,783 61	3,540 60	38 94	3,579 56
New Work	3,100 45	1,800 00	4,900 45	15,328 60	375 45	15,704 05	1,660 90	591 49	2,252 39	10 00		10 00
New Equipment	1,850 00		1,850 00	52,221 32		52,221 32	1,000 00		1,000 00			
do do (Oliver Adams's Contract)				12,066 30		12,066 30	45,752 80		45,752 80	44,256 72		44,256 72
Extraordinary Repairs to Road	311,274 17		311,274 17	56,626 13	509 42	57,135 55	To Bridges.	To Bridges.				
" " " Cars	33,565 28	3,574 74	37,140 02				9,608 73	185 21	9,743 94			
" " " Motive Power	28,803 05	4,319 13	33,122 18			To Road	7,129 58		7,129 58			
Total	$395,595 97	$12,324 42	$407,940 39	141,921 51	$3,805 71	$145 727 22	$70,533 16	$2,129 16	$72,662 32	$47,807 34	$38 94	$47,846 28
Grand Total of all Expenses	$1,401,575 40	$168,211 19	$1,569 786 59	$1,342,604 09	$197,484 08	$1,540,088 17	$937,133 36	$175,625 75	$1,148,759 11	$1,032,762 58	$196,188 11	$1,228,950 69
Deficit	$250,153 60	Net. $4,208 51	Def. $245,945 09	Def. $12,549 82	Net. $1,273 11	Def. $11,276 71	Net. $120,817 41	Def. $12,257 43	Net. $108,559 98	Net. $114,455 10	Def. $24,781 77	Net. $89,573 33

found to be liable to pay the taxes, paid out of the proceeds of the said certificates in pursuance of the provisions of the second paragraph of this agreement.

2. Interest on all pay-roll certificates, including special loans, shall be charged to and assumed or paid by the said lines respectively in the proportion in which the moneys were borrowed to pay pay-rolls on the said lines severally.

3. The balances due to and from foreign roads shall be adjusted as follows: If when the said accounts are closed there shall appear a balance in the hands of the receiver, it shall be distributed
1124–46 as follows: to the main line 40.46 and to the extension 6.46; and if there should be a liability of the trust property on account of said matters it shall be assumed or paid in the like proportion.

4. And this agreement shall be held and taken to be a full settlement, adjustment, division and distribution as between the said main line and extension of the said receiver's indebtedness up to and including November 30, 1878, except in respect to the said item of vouchers not yet returned, which shall be charged and distributed to said lines respectively, in the same manner as other vouchers have heretofore been charged and distributed by C. Kelsey, auditor, on the books of the receiver.

Eighth. The extension shall be required to pay interest on the sum of forty-three thousand six hundred and seventeen dollars, from November 30, 1878, at the rate of eight per cent. per
1124–47 annum.

Ninth. It is further hereby stipulated that the court may make and enter all orders that may be necessary to carry into effect the provisions of this stipulation and agreement.

(Signed) G. E. TAINTOR,
For Main Line Committee.
SUMNER R. STONE,
For Extension Committee.

1124–50

Exhibit G.

STATEMENT of I., B. & W. R'y. Stock Outstanding Dec. 16, 1878.

	Original Stock I., C. & D. R. R.	Original Stock D., U., B. & P. R.	Issued by the I., B. & W. Ry.	Main Line.	Extension.
On June 28, 1872	$2,000,000 00	$2,944,300 00			
Exchanged for I., B. & W	2,000,000 00	2,904,200 00	99,500 00	5,000,700 00	
On May 1, 1873		40,100 00		5,003,700 00	$511,900 00
" " 1, 1874		40,100 00		5,003,700 00	863,500 00
" " 1, 1875		40,100 00	100,000 00	5,103,700 00	2,507,200 00
Since May 1, 1875		40,100 00	1,000,000 00	6,103,700 00	2,509,300 00

A. P. LEWIS,

Sec'y & Treas.

1124–51

Exhibit "H."

Statement of Main Line in Illinois.

	1873.	1874.	1875.	1876.	1877.	Totals.
VERMILLION CO.						
Road	1113 06	2104 70	1403 10	1424 53	1461 38	7506 77
Roll. stock	785 93	599 89	443 60	393 04	397 78	2620 24
Personal	176 30	206 37	323 00	69 11	86 03	860 51
Cap. stock	6754 01	219 20	670 00			7643 21
CHAMPAIGN CO.						
Road	1653 42	4539 75	2545 35	2406 31	2402 07	13,546 90
Roll. stock	1151 58	1289 52	826 19	605 30	597 37	4469 96
Personal	1304 70	1608 44	1369 65	1066 54	1134 69	6484 02
Cap. stock	9739 20	470 35	1234 18			11,443 73
PIATT CO.						
Road	345 44	658 22	607 50	270 22	454 73	2336 11
Roll. stock	319 33	224 75	220 52	79 24	133 15	976 99
Personal	15	14	12	06	22	69
Cap. stock	2744 85	81 87	336 58			3163 30
DEWITT CO.						
Road	352 57	909 16	338 24	466 14	427 10	2493 22
Roll. stock	265 55	286 67	100 27	119 89	115 26	887 64
Personal	73	1 08	14 96	47	1 05	18 29
Cap. stock	2282 23	104 22	182 16			2568 61
MCLEAN CO.						
Road	1542 96	3293 74	2475 79	2242 20	2296 01	11,850 70
Roll. stock	1216 17	1126 22	869 87	636 47	647 17	4495 90
Personal	68 11	82 57	82 68	146 46	373 80	753 62
Cap. stock	9799 73	1122 43	1237 40			12,159 56
TAZEWELL CO.						
Road	1671 96	2606 67	2187 70	1538 83	1847 29	9852 45
1124–52 Roll. stock	1150 14	729 88	564 47	366 50	452 67	3263 66
c Personal	22 05	20 78	1 20	1 25	1 64	46 92
Cap. stock	7897 93	269 01	982 15			11,149 09
PEORIA CO.						
Road						
Roll. stock	99 43		125 64			225 07
Personal						
Cap. stock	393 77		55 18			448 95
Total Road	6679 41	14,002 24	9557 68	8348 23	8888 59	47,586 15
" Roll. stock	4988 13	4256 93	3150 56	2200 44	2343 40	16,939 46
" Personal	1571 74	1919 38	1791 61	1283 89	1597 43	8164 05
" Tangible	13,239 28	20,288 55	14,499 85	11,832 56	12,829 42	72,689 66
" Cap. stock	41,611 72	2267 08	4697 65			48,576 45
Grand Totals	54,851 00	22,555 63	19,197 50	11,832 56	12,829 22	121,266 11

A. P. LEWIS,
Secy. & Treas.

1124–57

Exhibit "L."—"MASON COUNTY."

Name of Railroad.	Class A.—Railroad Track.									Class B.		Total value of R. R. property in county as assessed by State Board of Equalization
	Right of Way & Improvements thereon.		Main Track, Length.		Assessed value.	Side, Second or Turn-out length.				Rolling stock.	Capital stock.	
	Acres.	Assessed value.	Miles.	Feet.		Miles.	Feet.	Assessed value.		Assessed value.	Assessed value.	
Indianapolis, Bloomington & Western.....			26	2,640	43,025					55,637	478,256	576,918

1124–58

Exhibit "M."—"DE WITT COUNTY."

Name of Railroad.	Class A.—Railroad Track.									Class B.		Total value of R. R. property in county as assessed by State Board of Equalization
	Right of Way & Improvements thereon.		Main Track, Length.		Assessed value.	Side, Second or Turn-out length.				Rolling stock.	Capital stock.	
	Acres.	Assessed value.	Miles.	Feet.		Miles.	Feet.	Assessed value.		Assessed value.	Assessed value.	
Indianapolis, Bloomington & Western.....	6,240	2,652	4	4,894	7,971		2,388	1,828		10,309	539,795	562,555
(New Road.)			25		40,590					52,488		93,078

1124–59

Exhibit "N."—"PIATT COUNTY."

Name of Railroad.	Class A.—Railroad Track.									Class B.		Total value of R. R. property in county as assessed by State Board of Equalization
	Right of Way & Improvements thereon.		Main Track, Length.		Assessed value.	Side, Second or Turnout.				Rolling stock.	Capital stock.	
	Acres.	Assessed value.	Miles.	Feet.		Miles.	Feet.	Assessed value.		Assessed value.	Assessed value.	
Indianapolis, Bloomington and Western	102.18	4,418	8	950	13,281		1,150	880		171 74	474,283	5,100 36
New Road			18	528	27,387					380 01		67,388 00

1124—60

Exhibit "O."—"CHAMPAIGN COUNTY."

Name of Railroad.	Class A.—Railroad Track.									Class B.		Total value of R. R. property in county as assessed by State Board of Equalization
	Right of Way & Improvements thereon.		Main Track, Length.		Assessed value.	Side, Second or Turnout length.				Rolling stock.	Capital stock.	
	Acres.	Assessed value	Miles.	Feet.		Miles	Feet.	Assessed value.		Assessed value.	Assessed value.	
Indianapolis, Bloomington and Western	32,642	15,722	29	580	47,263	4	3,414	18,780		61,117	741,925	884,807
New Road			12		19,483					25,194		44,677

And afterwards, to wit, at the May term of said court, on
1125 the 12th day of June, 1880, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now Wm. W. Martin, and files his claim herein, without prejudice, by consent of court; and said claim is in the words following, to wit:

(Claim not on file.)

1126 And afterwards, to wit, at the November term of said court, on the 16th day of March, 1881, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

"The following order was this day received from the Honorable Thomas Drummond, circuit judge, at Chicago."

An order of reference having been made in this cause to William P. Fishback, master in chancery, to examine and report upon certain matters therein named, said order being made on the 14th day of February, 1880, and no report of the master therein having been yet made—

It is ordered by the court that the master be required to make his report herein to this court on or before the 30th day of April next.

And afterwards, to wit, at the November term of said
1127 court, in recess thereof, on the 29th day of April, 1881, the following further proceedings in the above entitled cause were, to wit:

Comes now the Farmers' Loan & Trust Co., by C. W. Fairbanks, Esq., solicitor, and files its petition herein for an extension of the time for filing the master's report herein, in the words following, to wit:

In the matter of the six months' claims.

The Honorable Thomas Drummond, judge of said court:

Your petitioners, the Farmers' Loan and Trust Company, and the purchasers of the said railway, respectfully show:

That on, to wit, the day of February, 1880, an order was entered in the above cause referring the above matters to William P. Fishback as master, with instructions to take testimony thereon and report the same with his conclusions to this court.

That on, to wit, the 28th day of April, 1880, petitioners began taking testimony under said order of reference; they took testimony on the said 28th, and on the 29th day of said month.

That petitioners took testimony two days only in July: on the 12th and 13th.

That respondents cross-examined petitioners' witness Lewis, October 14th and 15th; no further testimony being taken in
1128 said month.

That in November petitioners consumed 9½ days in taking testimony and respondents consumed four days in cross-examination.

That in December petitioners consumed 7½ days in direct examination and respondents one day in cross-examination.

That in January, 1881, petitioners consumed five days in direct examination, while respondents consumed no time whatever.

That in February petitioners consumed one day and a fraction in taking testimony, while respondents consumed a part of one day in cross-examination.

That in March petitioners consumed 5 or 6 days in direct or re-direct examination, and respondents but one half a day in cross or re-cross examination.

That on April 14th respondents consumed a part of the day in direct examination and petitioners a part of the same day in cross-examination.

That of the time thus consumed in taking testimony in this matter petitioners have spent about 34 days and respondents about 8 days, and of the said eight days 7½ days were necessarily consumed in cross-examination of petitioners' witnesses.

That on or about March 16, 1881, this court ordered said master to file his report herein on or before April 30, 1881; that after
1129 said order was made petitioners spent 4½ days examining Lewis and required him to make exhibits consuming some 5 or 6 days more of his time, thus delaying him in the preparation of exhibits previously required of him by respondents and which were and are absolutely necessary for a correct presentation of respondents' defense.

That before said Lewis could complete the preparation of his said testimony for respondents, he was taken sick and has so remained much of the time since, thereby being unable to complete the preparation of the necessary testimony for respondents, as appears by the affidavit of said Lewis hereto annexed, marked Exhibit "A," and made a part hereof.

Respondents further say that the time of said Lewis has been so consumed by petitioners and a short period of illness, that he has been unable to complete, in addition to the uncompleted data in his said cross-examination, additional data to be used in chief by respondents; that it is absolutely necessary that such data be produced by said Lewis in order that respondents may properly and fairly
1130 present their defense to the court; that said Lewis is the only person of whom respondents can obtain such data.

Petitioners further say that, owing to the facts aforesaid, they will be unable to present their defense properly to this court within the time limited; that it is the result of no neglect or omission, so far as they could foresee or prevent, on their part; that if the order of limitation is extended, so said Lewis can have time to produce the same, they can and will produce data that will largely reduce the alleged betterment or extraordinary repair account of the receivership subsequent to December 1, 1874.

Petitioners therefore ask the court for a reasonable extension of the time for the making of the master's report from April 30, 1881.

THE FARMERS' LOAN AND TRUST COMPANY AND PURCHASERS,
By C. W. FAIRBANKS, *Solicitor.*

HARRISON, HINES & MILLER,
J. D. CAMPBELL, *Counsel.*

STATE OF INDIANA, }
Marion County. }

C. W. Fairbanks, being duly sworn on oath, says he is
1131 solicitor for respondents; that he has read the foregoing petition and knows the contents thereof; that the statements therein contained are true, as he verily believes.

C. W. FAIRBANKS.

Subscribed and sworn to before me the 29th day of April, 1881.

WALTER KESSLER,
Notary Public, Marion Co., Indiana.

Exhibit "A."

INDIANAPOLIS, April 28th, 1881.

MR. C. W. FAIRBANKS.

DEAR SIR:—In answer to your inquiry I would say, that after Mr. J. M. Butler finished my examination on March 27th, I began at once the preparation of statement desired and called for by you, i. e., detailed statement of labor performed by extra gangs and section men, as *is shown* by *original* time books kept by foremen of the several gangs and sections during 1873 and 1874.

I worked at the same until April 5th, when I was taken sick and forbidden to work by my doctor for an indefinite time. I was confined to my house nearly two weeks, but, knowing your anxiety to have the testimony ready as early as possible, I took the nec-
1132 essary books and papers to my house and began upon it again the 19th, though then unable to do more than a half a day's work.

I completed this statement for six months on the 25th, leaving fourteen months yet to make up—the statement being from April, 1873, to December, 1874, only; as in the months of January, February, and March, 1873, there are none of the charges to construction, of which both the correctness and justness is in question.

It will take me fully 28 days to complete this exhibit. It will take me on an average fully two days for each month to make it, double the time I anticipated when I *began* the work.

Since Tuesday, 26th, when you looked over the exhibit I had prepared last summer, for Mr. J. D. Campbell, regarding operations during receivership, I have been engaged in completing details of

some of these exhibits. I ought to have at least ten days to complete this work. I cannot see how it will be possible for me to finish these exhibits before some time in June. It is a class of work that but *one* person can work at, and so unavoidably takes considerable time.

I have been much delayed this past winter, both in giving testimony and preparing such exhibits as were called for, by sick-
1133 ness, caused to some extent at least, and my doctor says mostly by overworking myself. I have been very desirous to get the evidence and statements completed, and have not spared myself at all; worked hard when I ought not to have done so, and contrary to my doctor's advice. I hope, now that the weather is pleasant, I will have no further delay from sickness.

Yours truly, A. P. LEWIS.

Subscribed and sworn to in my presence this 28th day of April, A. D. 1881.

G. L. DICKERSON,
[SEAL.] *Notary Public, Marion Co.*

And afterwards, to wit, at the November term of said court, in recess thereof on the 2d day of May, 1881, the following further proceedings in the above entitled cause were had, to wit:

Before the Honorable Thomas Drummond, circuit judge, at Chicago.

It is ordered by the court that the master in chancery to whom the reference was made by the court in February, 1880, as to certain claims against the railway company, have the time extended for making his report up to the 18th day of May, 1881, and including that day.

[Folios 1134 to 1151, both inclusive, were erased in original copy.]

1152 And afterwards, to wit, at the May term of said court, on the 18th day of May, A. D. 1881, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now William Fishback, master in chancery, and files his report, accompanied by exhibits, in compliance with the order of reference entered herein on the 20th day of February, A. D. 1880, and subsequent orders modifying the same. And said report is in the words following, to wit:

1153 UNITED STATES OF AMERICA, }
State of Indiana. }

In the United States Circuit Court for the District of Indiana and Southern District of Illinois.

MALCOLM C. TURNER et al. }
v. } Original Bill.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY. }

THE FARMERS' LOAN AND TRUST COMPANY
v.
THE INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY COMPANY et al. } Cross Bill.

CHARLES W. SMITH and ROBERT TURNER, Trustees,
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY et al. } Cross Bill.

Intervening Petition of the Western Car Co. et al.

Master's Report.

To the Honorable Court:

The undersigned, master in chancery, to whom the foregoing
1154 petitions were referred to take proof and report the same to the court with his conclusions thereon, would respectfully submit the following report:

On the 13th of February, 1880, the following was made in this case, viz:

Various parties having filed intervening petitions heretofore in this case claiming payment for work and labor done and for supplies and materials furnished to the railway company prior to the 1st day of December, 1874, it is ordered that the same be referred to William P. Fishback, Esq., master in chancery of this court, and he is hereby directed to take testimony and report the same, together with his finding of the facts, to this court upon the following points:

1. What amount, if any, was paid by the said company of the coupons on bonds of the main line, and of the extension or interest thereon, from the 1st day of January, 1873, to the 1st day of July, 1874, and from the first day of July, 1874, to the first day of December of that year, and from what source the funds were derived, if any payments were made, whether from the income of the road or otherwise.

2. What amount, if any, was expended by the said company on the main line, and on the extension during the times last aforesaid, for permanent improvements, betterments, right of way or other real estate, new equipment and for construction, and if any such
1155 payments were made, the source from which the funds were obtained, and whether from income or otherwise.

3. What amount was expended by the receiver on the main line, or on the extension, in permanent improvements, right of way, or other real estate, new equipment, or for construction after the 1st day of December, 1874; and the sources from which the funds were obtained to make such payments, whether from income or otherwise. The master, in making his report upon the points heretofore stated, shall discriminate as far as practicable between what may be considered the mere operating expenses of the railway, and what may be considered as permanent improvements or betterments, or equipments of the road.

4. The gross earnings of the railway during the whole period of time before mentioned, namely, from the 1st day of January, 1873, until the receiver relinquished possession of the property, and in the divisions of time before mentioned; and what remained after deducting from these gross earnings, if anything, for necessary operating expenses, proper equipment and useful improvements; where any payments shall be found by the master to have been made, he shall state in what the payments have consisted, whether in cash, or property, or equipment; and where taxes have been paid either
1156 by the company or by the receiver, the master shall report for what, and the dates and amounts thereof.

The master shall also find and report what property was received by the receiver on the 1st day of December, 1874, or afterwards, under the authority of the court, whether the was real, personal or mixed, and also what property of the same character was surrendered by the receiver to the purhasers.

And it is further ordered by the court that the master may inquire into and report in relation to any other facts which in his judgment he may deem material to the subject of inquiry covered by this order.

And it is further ordered that the master shall have the right to receive and consider as testimony in this reference all of the testimony heretofore taken in the matter of the intervening petitions and the pleadings thereon, as far as the same may be pertinent
1157 and applicable to the subject of inquiry presented by this order.

Soon after the date of the above order the master notified counsel on both sides that he was ready to proceed with the taking of testimony. He was then informed that no progress could be made in the examination, until the witness whom the petitioners proposed to use could obtain access to the books of the corporation, as well as the books kept by the receiver, General Wright; the books being in the custody of the respondents, or the officers of the *Indiana*, Bloomington and Western Railway Company, the successor of the old corporation.

To have produced these books in bulk as evidence would have done very little towards facilitating answers to the questions propounded in the order of the court.

It became apparent that there was no practical method of getting at the necessary facts other than by the employment of a skillful accountant, who should go through the books and present, in the form of tabulated statements, answers to the interrogatories put by the counsel, with a view to presenting in a compact and intelligible form their respective theories of this controversy.

Mr. Chauncey Kelsey, then auditor of the *Indiana*, Bloomington, and Western Railway Company, and who had held that position under the old company, and the receiver for the whole period in controversy, had, at that time, accepted an appointment to the
1158 office of auditor of the Chicago and Alton Railroad Company,

the duties of which office would soon take him away from Indianapolis and permanently locate him at Chicago.

From the date of this reference up to the time of his leaving Indianapolis, (which was about April 1st, 1880,) Mr. Kelsey was busily engaged in closing up his accounts as auditor of the *Indiana*, Bloomington and Western Railway Company, and it was impossible to procure his services for the needed work.

In addition to the skill which would be possessed by a competent accountant, it was necessary that the person selected to perform this work should have some knowledge of the history of the road and its affairs, and some acquaintance with the manner of keeping its accounts, as well as the special knowledge which would enable him to go to original sources of information without being compelled to interrupt the officers of the road, who had the custody of the books and papers.

Mr. A. P. Lewis, formerly secretary and treasurer of On. I., Boll. R'y Co., was employed by counsel on both sides to make the necessary investigations. Before he began his labors, however, a complaint was lodged with his honor, Judge Drummond, that the custodians of the books refused to allow Mr. Lewis access to them;
1159 and upon formal application having been made, and after its argument, Judge Drummond made the following order:

In the matter of the application of the intervening claimants *v.* the I., B. & W. Railway Company.

Upon the application of Mr. Butler, of counsel for the intervenors, and by consent of counsel representing the new company and the purchasers at the master's sale, it is agreed that the witnesses Lewis and , whom Mr. Butler desires to examine as to matters contained in the books of account and vouchers of the old company and of the receiver, shall have access at the office of the company to such books and papers for the purpose of making such examinations as are necessary, and to take from said books abstracts of any accounts or entries that may be proper or necessary; provided that such inspection and examinations shall be made at such times and manner as not unreasonably to interfere with the business of the company's affairs; and provided further—

That such examination shall be made in connection with, and under the observation of some person designated by the pur-
1160 chasers, who shall be permitted at the time to take duplicates of any abstracts or statements made up by Mr. Butler's witnesses from the books.

Such examinations and abstracts to be limited to matters embraced within the reference.

Mr. Lewis at once proceeded at once to make his investigations.

Before Mr. Lewis had prepared himself for examination, Mr. Kelsey consented to come from Chicago, and was accordingly examined as a witness on the 28th and 29th days of April, A. D. 1880. It was then ascertained that Mr. Lewis had not prosecuted his investigations

far enough to enable him to answer the questions propounded by the petitioners; nor could Mr. Kelsey give the information sought to be obtained in response to the interrogatories submitted to him. It was then agreed that the future examination of the books should be made for both sides by Mr. Lewis, he agreeing to prepare such exhibits as should be called for; Mr. Kelsey's duties at Chicago and the protracted illness of his wife preventing him from performing that kind of labor.

The testimony of these two witnesses makes up the bulk of the evidence that has been produced before the master.

The essential facts upon which answers to the interrogatories propounded in the order must be based, are contained in tabu-
1161 lated statements prepared by Mr. Lewis, and introduced from time to time as the examination progressed, and designated as exhibits.

It appears by reference to the testimony of Mr. Lewis, given on the 27th day of March, 1881, (Vol. 3, p. 783,) that from the time he commenced this investigation under the orders of court up to the date last named he was constantly employed in prosecuting his investigations, except during a vacation of a month, which was allowed him in August last. He was disabled by sickness several times, and was compelled to suspend his labors by the peremptory orders of his physician.

His labors were made the more onerous, and the difficulties of his investigation have been greatly increased, by the discovery of the fact that the original entries upon the books of the corporation, showing the distribution to operating expenses and construction and equipment accounts, had been arbitrarily changed by direction of the chief officers of the corporation, making a difference of over $800,000 in the accounts.

The master feels justified in giving a pretty full history of the manner in which these accounts were changed.

On the 30th of June, 1873, there was a change made on the books of the company to construction and equipment of 239,109.62, with a memorandum stating that "this entry to correct errors
1162 made in distribution of vouchers and pay-rolls for the past year." The following is a list of items entering into that amount:

Copy of entry on books June 30, 1873.

Construction and equipment	$239,109	62
To sundries:		
Conducting transportation	$20,004	38
Motive power	22,468	85
Maint. of cars	11,000	
Maint. of way	5,500	
General expenses	6,198	35
Conductors B. & B.	11,500	
Car rentals	45,000	

Maint. of cars	$14,000	
Engines and firemen	10,500	
Fuel for locomotives	12,811	58
General expenses	11,194	27
Maint. of M. P.	19,000	
Maint. of road	16,500	
Station service	4,200	
Stock killed	3,500	
Train service	300	
Taxes	17,000	
Miscellaneous	6,832	19
Telegraph service	200	
Printing and stationery	800	
Engine houses M. S. & T. T.	300	
Fuel and water stations	300	
	239,109	62

("This entry to correct errors made in distribution of vouchers and pay-rolls for the past year.")

1163 On the 30th of June, 1874, construction and equipment account was charged to sundries amounting to $570,832.77, an itemized statement of which is as follows:

Copy of entry of June 30, 1874.

Construction ac't to sundries	570,832	77	
Advertising		$1,949	54
Foreign agents passenger		26	28
" " freight		3,072	24
Maint. of buildings		240	18
" " bridges		7,214	16
Conductors B. & B.		47,577	68
Maint. of cars		47,180	81
Damage to persons and bag		3,701	24
Engineers and firemen		48,633	10
Engine houses M. S. & T. T.		3,115	30
Fuel and water stations		6,042	05
Maint. of fences		83	44
Fuel for locomotives		53,945	66
General expenses		29,589	32
Maint. of M. P.		56,064	56
Loss and D. freight		2,044	10
Legal expenses		2,460	96
Printing and stationery		4,053	85
Peoria bridge		420	81
Maint. of road		38,212	94
Station service		32,434	42
Stock killed		8,084	57
Train service		17,516	09

Telegraph service	$6,522 83
Maint. of telegraph	490 65
Miscellaneous	3,679 13
Mail service	830 25
Sleeping cars	3,212 69
Track rent	19,869 12
Car rental	122,565 00

1163½ These amounts were arbitrarily transferred from the operating expense account to construction and equipment account as is shown above.

The auditor, Mr. Kelsey testifies that, from his knowledge and experience as a railroad book-keeper, the distributions as made upon the books prior to the making of these arbitrary entries, were correct.

On being asked to explain the nature of these arbitrary entries, Mr. Kelsey states that on the 30th of June, 1873 (the end of the fiscal year of the company) there was charged back from operating expenses to construction and equipment the sum of $239,109.62. That on June 30th, 1874, there was charged back to construction and equipment from the various items of operating expenses $570,-832.77. That the effect of these charges was to apparently reduce the operating expenses and increase net earnings. (Vol. 1, pp. 197-89.) He says there is nothing on the books or any memorandum among the papers of the company showing any reason for these changes, except the memorandum which states: "To correct errors made in distribution of vouchers and pay-rolls for the past year."

That he knew nothing of this change being made at the time it was made; that he was not consulted about it; that he was not aware of any series of errors in the manner of distributing the accounts which required such correction. He subsequently qualified this statement, as will be seen.

1164 Again in his testimony (Vol. 2, pp. 13, 14, 15) Mr. Kelsey says that Exhibit Lewis No. 18 reduces the amount that was transferred from operating expenses to construction account at the end of the fiscal year 1873. He says he made the entry on the books of the company; that it was made on an order given him at the time either by the president or general manager; that he thinks it came in an order from the president to him through the general manager; that the order was to take off a certain amount from operating expenses and charge it to construction account. He thinks the adjustment was to be made upon a percentage basis, but he cannot find the figures that were used at the time; that he probably made the computation and believes the figuring was correct; that it was made upon the basis on which he was directed to make the distribution; that he does not believe it is proper to take off of one expense and add to another in that way; that if there had been an error in putting everything into operating expenses and there was no construction account, the error should have been rectified by taking from operating expenses and charging to construction account what properly belonged to it; that when this entry was made

the construction account was open on the books; that in his opinion the proper amount of construction had been carried into construction account for the year ending June 30th, 1873; that the
1165 amount which had been charged to construction and equipment account for that year was $760,553.11, and that after the correction entry of June 30, 1873, was made the construction account stood $1,075,321.91.

He also says that an order was made directing him to make an entry charging $75,674.18 to construction and crediting the same amount to income account. That the effect of this order was to make the earnings and income appear as being $1,545,481.32, when they were in fact $75,674.18 less.

He says that for some reason or other the income account "wanted to show" that much more to the credit side, and the order was to charge it to construction and increase the income account. (Vol. 2, pp. 16, 17, 18, 19.) That both these entries, the one transferring the $239,109.62 from operating expenses to construction, as well as the other entry of $75,674.18 to income account, were erroneous entries.

He says the only way he can explain the $75,674.18 entry is that it was made according to an order received from B. E. Smith, president; that it was not given in writing; that the entries were made about six weeks later than they were dated.

He says if B. E. Smith was not here the order probably came to him, the witness, through the general manager, C. W. Smith, and that according to his recollection there was an arbitrary sum
1166 given to him to charge back to construction, so as to make the books balance, and relieve the operating expense account of this $75,674.18; that he swelled both accounts that much, and that the entry does not mean anything except the swelling of the construction and income account just that much.

In further explanation of the $75,674.18 entry, he says (Vol. 2, p. 20, 21) the order was probably given to him in this way: that the expense and certain charges as income were so much money, whatever it might have been, and that the charges to income from operating expenses after making the entry as shown in Lewis No. 18, and charging up discount and interest, coupon interest, car rental, track rent and all other items of expense, amounted to the sum of $1,545,481.32; that the credit to income account would have been $1,469,807.14, and he thinks an order must have been given to him to put enough to construction and equipment to balance the credit, or to make the credit to income account equal to the debit of the same; that the idea was to make the income account not only pay the operating expenses, but to make it large enough to show the payment of all interest that was paid, and these entries were simply for the purpose of bringing up the income account so it would cover not only the operating expenses, but the payment of all coupon interest paid during the year.

1167 That it lacked $75,000 or more of being big enough, and

he was told to swell the income and construction accounts that much, an put that with the income account.

He further says that of the items entering into the entry of June 30th, 1873, some little of it may properly belong to construction.

Continuing his testimony, (Vol. 2, pp. 28, 29, 30,) Mr. Kelsey says he has no personal knowledge of any items included in the entry of June 30, 1873, that did properly and legitimately belong to construction; that there may be some small amounts; that the only way he could tell whether that entry was correct or erroneous would be by actual examination of every voucher and of the pay-rolls and of shop reports of the whole year, and that it would take him three or four weeks to make such an examination.

Speaking of the entry of June 30, 1874, the witness says the construction account for the year June 30, 1874, shows the amount charged to construction to be $1,331,043.04, and that in that amount is charged the $610,127.29 from income account, and that making the proper deduction it would leave the actual construction account for the year ending June 30, 1874, to be $720,915.74, which would be based upon actual vouchers and pay-rolls.

1168 He says as to the entry of June 30, 1874, that the order came to him in the same manner as the similar order of the previous year; he understood the order to come from the president in all cases.

He says there was nothing deducted from the expenses in that charge to construction account, but it was an arbitrary charge to construction, increasing that account and increasing the credit to income account; and that there was in fact during the year 1874 no actual reduction of the operating expense account, as he understands the entries. (At Vol. 2, pp. 30,) he says: If I can see the journal I may change my answer.

He further explains (Vol. 2, p. 33) the entry of June 30, 1874, by saying that on that date there was an entry charging construction account and crediting sundry expense account with $570,832.77, and also an entry of $94,947.33, charging construction account and crediting income account.

He says (Vol. 2, p. 83) that the entire charge of $239,109.62 on June 30, 1873, was deducted from the operating expenses of that year, and that a statement of operating expenses as shown by the books is untrue to that extent.

He further says (Vol. 2, p. 58) that he was told by the general officers to bring the gross operating expenses down to a certain percentage.

1169 He testifies (Vol. 2, p. 67) that in order to rectify the books, after eliminating the entry of June 30, 1874, there ought to be subtracted from the income account $94,947.33, which was simply added for the purpose of swelling the account, and add the sum $507,832.77, that was charged to construction account from the operating expense account for that same year.

He testifies (Vol. 2, p. 68) that the items entering into that amount

are not all properly chargeable to construction and equipment, and he enumerates some of them, viz: Foreign agents, passenger, and foreign agents, freight; loss and damage, freight; Peoria bridge; mail service, sleeping cars, track rent, car rental, etc.

He further testifies (Vol. 2, p. 71) that the object of all these fictitious or correction entries was the same, viz: to make the income account big enough to pay the operating expenses and the interest.

Mr. Kelsey subsequently testifies (Vol. 2, p. 256) that on account of the imperfect construction of the road he was to see that certain proportion from all sources should be charged to construction, but he does not remember the proportion or percentage.

1170 He testifies (Vol. 2, p. 259) that his orders as to these entries came, as he then recollected, every month; he would ask about certain things. He had a general order to refer matters to C. W. Smith or to the president, and that each month as he went to make out a balance sheet for the month, he had instructions from Mr. Smith how much to scale down operating expenses for that month. It was not on a regular per cent. each month.

Mr. George E. Howe, whose testimony will be found (Vol. 4, pp. 1 to), was examined upon the subject of these distributions.

He testifies he was connected with the railway during the time it was being built and was on the road from 1868 until November, 1879, being about eleven years of continuous service. From January, 1873, down to December, 1874, he was chief engineer of the road.

He testifies that he had charge of the section rolls and the labor rolls in the road department, and made up the accounts and passed upon those rolls for the auditor; that he made the distributions upon them; that the distributions were made under instructions from higher officials to him. He does not exactly remember the distributions, but says it was a percentage which was put to the construction account, and that such percentages were not in accordance

1171 with his judgment as to the distributions that should have been made; that they were made in accordance with instructions he received from the auditor and higher officials.

He testifies that there are a great many things charged to construction account which he does not think should have been so charged, but should have been charged to the ordinary repair account; and that during the receivership he was directed to so distribute the expenses arising out of the operation and maintenance of the road as to show a larger amount charged to construction account than should have been shown.

Upon this evidence the respondents claim that it would be manifestly unjust to accept as a basis for any computation in this case the accounts appearing upon the company's books, as they are effected by these so-called correction entries. The master is strongly inclined to discard all statements or calculations based upon accounts which have been dealt with in this manner. The obvious purpose of the officers who directed these changes was to present to the stock-

holders and directors a false showing of the operations of the road, whether for the purpose of keeping themselves in the control
1172 of the management of the corporation, or for the purpose of giving an apparently fictitious value to the securities of the company which were then being sold or hypothecated in the market, is immaterial here; but certainly they should not be allowed to effect the interest of third parties in an investigation like this.

At the request of counsel, Mr. Lewis has prepared different sets of exhibits; one set showing the distribution of accounts as it was originally made upon the books; another set showing the distribution of the accounts giving effect to and allowing the correction of fictitious entries, viz: Kelsey No. 1 contains a statement of the gross earnings, operating expenses, and construction and equipment account from January 1st, 1873, to December 1st, 1874, according to the books after the correction entries were made. Lewis No. 7 is substantially the same, with fuller details.

Kelsey No. 10 contains a detail statement of the vouchers and pay-rolls charged to construction and equipment from January 1st, 1873, to December 1st, 1874, by months, as they were carried into the books before the correction entries.

Lewis 20 contains a statement to the gross earnings,
1173 operating expenses, and equipment for the same period, regardless of the so-called correction entries.

There are other exhibits explanatory of these as to certain matters of detail, but these fairly present in bulk the differences made in the accounts by the arbitrary entries.

It is argued by the petitioners that the accuracy of Kelsey 1 and Lewis 7, which are based upon the correction entries, is proved by the exhibits put in in connection with Mr. Kelsey's last examination at Chicago, which are statements made up by Mr. Kelsey for the annual meeting of the directors and stockholders.

Exhibit E 73 gives the construction and equipment account for each month of the year ending June 30, 1873, and Exhibit E 74 gives the construction and equipment account by months for the year ending June 30, 1874.

By a comparison of the amounts shown by these exhibits with Kelsey 1 and Lewis 7, so far as they relate to the same matter, the total difference between the construction and equipment accounts, as they appear upon these various exhibits, is only $47,846.05.

This, it is claimed, is a strong corroboration of the correctness of Kelsey 1 and Lewis 7.

The master does not consider it in this light. Statements prepared by Mr. Kelsey or Mr. Lewis for presentation at the annual meetings of the directors and stockholders were taken from the books as they had been changed by the arbitrary or correc-
1174 tion entries, and they are mere repetitions by the same officers of the previous incorrect statement appearing on the company's books.

It is also claimed that the tax reports for 1873 and 1874, which

are in evidence, state the construction account for those years to be larger by half a million of dollars than they appear to be by Kelsey 1 and Lewis 7. And it is argued that as those exhibits were made under a requirement of law, and for the purpose of taxation, for which purpose people and companies are never inclined to swell the truth, they are entitled to great credit. These are improperly called "tax reports." They are annual reports made to the railroad and warehouse commissioners.

It is claimed that these reports are materially strengthened by the testimony of Mr. G. E. Howe. He testifies (Vol. 4, p. 50) that he made up the report of the number of miles of side track laid, and furnished it to Mr. Lewis for the purpose of making out the last report that was ever made by the company. That is the report for the last five months from July 1st, 1874, to December 1st, 1874.

He testifies (Vol. 4, p. 22) that he furnished statements for the amount of fencing put upon the road by the company from time to time for these reports; also reports showing the increased bridging
1175 built each year upon the road. He also states that all the reports made by him of the character above named were in accordance with the facts.

Kelsey A 73 and Kelsey A 74 purport to give the operating expenses—first, from January 1st, 1873, to July 1st, 1873; second, from July 1st, 1873, to July 1st, 1874; and these added to the amount of gross operating expenses contained in Kelsey 4, "old evidence," which covers the period from July 1st, 1874, to December 1st, 1874, tally exactly with the amount of operating expenses as given in Kelsey 1 and Lewis 7.

As these reports were based upon the state of the books as it existed after the correction entries were made, the master is unable to see that they show anything further than that after these correction entries were made the subsequent reports of the officers were in strict accordance with them, and they shed no light on the question as to whether these so-called correction entries should be accepted as the basis of computation.

1176 According to one view of the evidence in this case, it may become wholly immaterial whether these correction entries shall stand or not. It is contended by the petitioners that, even laying them aside, there is conclusive proof that there was expended on permanent improvements, betterments, right of way, etc., an amount much larger than the amount of all claims allowed by the master. The further consideration of the effect of these entries will be deferred for the present.

I will now proceed to answer, so far as the evidence will enable me to do so, the questions propounded in the order of reference.

First Question.—"1. What amount, if any, was *paid* by the said company of the coupons on bonds of the main line and of the extension, or interest thereon, from the 1st day of January, 1873, to the 1st day of July, 1874, and from the 1st day of July, 1874, to the first day of December of that year, and from what source the funds were

derived, if any payments were made; whether from the income of the road or otherwise."

1177 The following table presents the answer as counsel for petitioners claim it should be made:

Main Line.

January 1, 1873, to July 1, 1874	$932,784 47	
July 1, 1874, to Dec. 1, 1874	229,449 02	
Total main line		$1,162,233 49
Extension.		
Jan'y 1, 1873, to July 1, 1874	$156,442 45	
July 1, 1874, to Dec. 1, 1874	18,876 08	
Total extension		175,318 53
Total main line and extension		$1,337,552 02

The process by which counsel for the petitioners arrive at this statement is shown on pp. 46, 52, and 117 of Mr. Butler's argument.

According to the master's understanding of the evidence, the above table is incorrect in several particulars, and the master will make a computation based upon what he understands to be the most reliable evidence.

I find and report that coupon interest was paid on the main

1178 line and extension during the times covered by the questions, as follows:

Main Line.

Jan. 1, '73, to July 1, 1874, 1st mort.	$428,047 50	
" " " " 2d "	119,290 66	
Total		$547,338 16
July 1, to Dec. 1, 1874, 1st mortgage	$175,507 55	
" " " " 2d "	59,600 00	—235,107 55
Total main line both periods		$782,445 71

I base this table upon the figures contained in Lewis 1, referred to and explained in the evidence. (Vol. 1, pp. 92, 159.)

Extension.

Jan. 1, 1873, to July 1, 1874	$175,618 20	
July 1 to December 1, 1874	35 00	
Total		175,653 20
Total main line and extensions		$958,098 91

(See Lewis 2, and evidence Vol. 1, pp. 93 to 159.)

Lewis 16 shows the dates as entered upon the company's books, of money deposited to meet coupon interest. The dates are not the

dates of deposits, but the dates when the entries were in fact made upon the books. The deposits were made in the East, on or before January and July, April and October, to meet the coupons as they matured.

But the exact dates of the deposits in New York cannot be
1179 stated from the evidence. There was no money sent from the treasury of the company, as kept at the company's office in the West, to New York to meet this coupon interest. The entries upon the books, as shown in Lewis 16, were made upon information given by B. E. Smith, president, to the treasurer, either verbally or by letter.

These exceptions may be noted.

There are two items in Lewis 16, amounting to $8,344.70, which sum represents that much coupon interest paid by the treasurer at Urbana, Illinois, and the coupons so paid are included in the above statement taken from Lewis 2, as they were coupons cut from extension bonds.

By Lewis 16, the following will appear to be the deposit account to pay coupon interest.

It is proper to say that in the amount appearing on that exhibit as having been deposited, there is included the gold premium that was paid to provide these funds and the expense of payment, which items are specified on the exhibit.

1180 *Main Line.*

July 1, '73, to July 1, '74, 1st mort.	$400,773 23	
" " " " 2d "	180,311 48	
Total main line, first period		$581,084 71
July 1, '74, to Dec. 1, '74, 1st mort.	$199,154 22	
" " " " 2d "	181 45	
Total main line, second period		$199,335 67
Total main line		$780,420 38

Extension.

Jan. 1, '73, to July 1, '74	$156,442 45	
July 1, '74, to December 1, '74	18,876 08	
Total		$175,318 53
Total main line	$780,420 38	
Total extension	175,318 53	
Grand total		$955,738 91

Which is the same total appearing in item No. 4 of disbursements on Lewis No. 38 X.

Of the amount so deposited as set forth in Lewis 16, there remained uncalled for to pay interest:

Deposited on the first mortgage main line during first period	$2,025 00
Deposited on the first mortgage main line during second period	3,465 00
Total	$5,490 00

This computation is based upon Lewis 1, Lewis 2, and
1181 Lewis 16, the result of which appears as before stated in item 4 of disbursements, on account of coupon interest in Lewis 38 X.

Lewis 16 is referred to and explained (Vol. 1, p. 167,) (Vol. 3, pp. 97, 113.)

The evidence shows that enough money was provided by the sale of extension bonds to pay all the coupon interest on extension bonds.

It is claimed by counsel for the petitioners that in this statement there should be included whatever interest, if any, was paid on money borrowed to pay coupon interest. The language of the question is as follows:

"What amount, if any, was paid by the said company of the coupons on bonds of the main line and of the extension *or interest thereon*, etc."

There is no evidence to show that any interest was paid upon the coupons themselves.

The master is further asked to state "from what source the funds were derived if any payments were made; whether from the income of the road or otherwise."

I report and find that the only sources from which the company derived any money during the periods named were—

First—Gross earnings of the road.

Second—From sale of extension bonds.

Third—From loans; borrowed money.

These funds were accounted for in the treasurer's accounts
1182 indiscriminately, and from the evidence before the master it is impossible to determine whether the identical money which was used in the payment of coupon interest came from gross earnings, from borrowed money, or from the sale of extension bonds.

It does appear, however, that during the periods above named interest was paid by the company to the amount of $226,813.11. (See Lewis 38 E.) It also appears from the evidence, as the master understands it, that the receipts from the gross earnings from month to month were amply sufficient to pay the operating expenses as they were incurred. So that it may be inferentially found, and the master is of opinion, that the entire interest paid, as shown by Lewis 38 E, was paid upon money borrowed for the purchase of new equipment, and on construction account, and to pay coupon interest.

As has already been stated, there is no data supplied by the proof by which an apportionment of the interest can even be approximately made. It will be seen that the counsel for the petitioners, in the tabulated statement above set forth, claimed that an item of $155,000

which is mentioned under the head of disbursements in Lewis 38 X as being a payment to B. E. Smith, trustee, should be included in this coupon interest account, and it is argued that interest
1183 on this to the amount of $31,000 should also be added.

The evidence regarding this $155,000 will be found (Vol. 3, pp. 392, 422 to 425, and 428–429); for reasons already stated the master does not admit this sum, nor the interest on it, into this account.

It also appears that in the dealings of the company with Turner Bros., demand notes to the amount of $515,166.41 were given, in which the rate of interest was stipulated at 12 per cent.

It is claimed that the interest paid on these demand notes, which is stated to be $65,821.21, as appears in the printed argument of Mr. Butler at page 50, should be added to the coupon interest account, as also an item of $46,180.13 on the Turner book account. These three items of interest enter into the total amount of interest above stated, $226,813.11, as shown in Lewis 38 E, as being *as being* the total interest paid by the company during those periods.

As to the dealings of B. E. Smith, who was then president of the company, with the funds, it may be said generally that he was in the habit of borrowing and disbursing funds in the East, and so far as the evidence shows we have no contemporaneous book entries of the transactions.

The information upon which the treasurer made up his
1184 accounts as to the transactions of Mr. B. E. Smith in New York, came to him verbally or by letter from Mr. Smith, and it does not appear, nor does it follow that the dates of the entries upon the books of the company correspond with the dates of the actual transactions as they occurred in New York. And the master is without information as to the exact dates at which moneys were borrowed or deposited by him in New York.

Second Question.—"2. What amount, if any, was expended by the said company on the main line and on the extension during the times last aforesaid, for permanent improvements, betterments, right of way or other real estate, new equipment and for construction; and if any such payments were made, the source from which the funds were obtained, and whether from income or otherwise?"

As has heretofore been stated in the report, the master feels compelled to discard from consideration all statements based upon the books as they were changed by the so-called correction entries of June 30, 1873, and June 30, 1874. Therefore the answer given to this question on pages 211 and 212 of the printed argument of Mr. Butler, which is based upon the accounts as effected by the
1185 correction entries, cannot be adopted by the master.

The master will first state the amount shown by the books as unaffected by the so-called correction entries which were charged on the books to construction and equipment account, regardless of whether the amounts so charged were paid or unpaid during the period.

On this branch of the enquiry the evidence does not furnish facts upon which a distinction can be made between the amounts charged to the main line and the extension respectively. The books show affirmatively that there was no separate account kept with the extension during the period prior to the receivership.

Amounts charged to construction and equipment:

From July 1, '73, to July 1, '74	$1,406,549.08	
Deduct error	24,774.27	
Leaving correct amount		$1,381,774.81
From July 1, '74, to Dec. 1, 1874		135,493.57
Total		$1,517,267.38

The error above named is corrected on the margin of Lewis 20, which furnishes the figures which form the basis of this computation, (See Lewis 20, which is explained Vol. 1, p. 221; Vol. 2, pp. 98, 328, 404, 405; Vol. 3, pp. 99, 474.)

The amount actually paid out on account of construction and equipment was as follows:

Amount actually paid on construction and equipment:

Jan'y 1, 1873, to July 1, 1874	$829,113.39
July 1, 1874, to December 1, 1874	59,951.31
Total	$889,064.70

As *expenses* by reference to Lewis 22, which is referred to. (Vol. 1, p. 242; Vol. 3, p. 382.)

Deducting the amount paid from the amount charged as
1186 above stated, leaves a balance unpaid on these accounts July 1st, 1874, of $628,202.68. In these statements the amounts paid are estimated so far as pay rolls & vouchers are concerned; applying the same percentage equally to construction and equipment account and the account of operating expenses, it appears from the evidence that of the amount above stated, viz, $889,064.70, as having been paid for construction and equipment, $779,046.37 was paid on construction and $110,018.33 on equipment.

Counsel for the respondents contend the account entitled construction and equipment in Lewis 20 is made up in part of items which should properly appear under the head of operating expenses, and at their request the witness Lewis prepared statements leaving out such items as were indicated in the request of respondents' counsel as far as practicable.

1187 The details of the items entering into the construction and equipment account, as it appears upon Lewis 20, are set forth in Lewis 26 and 27.

Lewis 26 A and 27 A were prepared in accordance with the specifications of a question asked by respondents' counsel of the witness Lewis which will be found in (Vol. 2, pp. 407 to 412 inclusive.) That question in substance is as follows:—The witness was asked to pro-

duce a statement showing the actual amounts of money paid by the company from January 1, 1873, to November 30, 1874, making the divisions of time mentioned in the order, and showing—

First.—The amounts actually paid for right of way, including increased facilities and grounds, and all expenditures incidental thereto, excluding, however, all mere expenses, legal and *and* otherwise, incurred by reason of the company having used the property without having first acquired the right of way, &c.

Second.—All amounts actually paid for the cost of new side tracks, less the cost of old side tracks taken up and replaced.

Third.—The amounts actually paid for the cost of all new bridges where none existed before; the difference in value between new bridges and cheap or temporary bridges which were replaced.

1188 Fourth.—The amounts actually paid for difference in cost of steel from iron rails, when the former was substituted for the latter, or the difference in the cost of heavier materials than that which it replaced.

Fifth.—The amounts actually paid for the cost of reducing grades or for other new grading, including absolutely new ballast.

The witness was also requested to make a statement showing the amounts actually paid out for such work as is described in the question.

Sixth.—The amounts actually paid for the cost of additions to or improvements of machinery or fixtures.

Seventh.—The amounts actually paid for additional buildings, including machinery and appurtenances.

Eighth.—The amounts actually paid for the cost of new ditches or for widening or deepening ditches insufficiently made before.

Ninth.—The amount actually paid for the cost of new fencing where there were no fences before.

These statements to include all freights actually paid by the company on items going into the several matters. In other words, I desire you to show the actual expenditures and payments of the company in connection with structures, works, and additions that

1189 are permanent in their nature and add increased value to the property; that are in the nature of accessories to the plant of the company, and not merely intended to replace something of a similar nature worn out and destroyed. This may include furniture and fixtures, or at least the machinery necessary to equip a new building or structure, and fit it for the purpose it was erected to serve, and may include all additions of a permanent and substantial character to things already in use, such as, for instance, improvement added to equipment, as a Westinghouse air brake, or Miller platform, if there are any such things in the period of the history of the company. Taking the value of chair cars rebuilt in excess of the value of the coaches out of which they were built—in case they had been put in good order and condition.

In making these statements from the books and papers of the company, I desire you to only include such items as appear by the

books and papers affirmatively to have been paid for those purposes, where there is either in the bill for work or materials, or the pay-rolls, of any statement or report of any head of a department, an exact explanation, which shows affirmatively and positively that a new work was done; excluding all arbitrary distributions, and
1190 excluding all expenses where there is no direct explanation showing that the money absolutely went into new work.

These statements need not follow in any way the numbering or classification I have given, but can be put upon one sheet of paper, such as you have made up for Mr. Butler, showing the distribution to be betterments, equipment and construction, and right of way, and may be on any division which you may find suitable to your convenience in preparing the statements.

In accordance with this question, the witness Lewis prepared Lewis 26 A and Lewis 27 A, which were introduced in evidence and explained in (Vol. 3, pp. 486 to 657) and elsewhere.

The effect of Lewis 26 A and 27 A was to reduce the amount charged to construction and equipment, as shown in the previous exhibits.

The gross amount of deductions as shown by Lewis 26 A and 27 A, is $388,131.66, which sum consists of the following items,
1191 viz, $31,639.59, which is charged in Lewis 26 to construction and equipment, and taken out because, as respondents claim, it represents an amount paid on account of motive power which was ultimately recovered from the company by the Rogers Locomotive Machine Works. (Vol. 3, p. 524, *et ante.*)

The next is an item of $43,606.73, which respondents claim represents the value of new iron rails at the time steel rails were substituted for worn-out iron rails. (Vol. 3, p. 558, *et ante.*)

The next is an item of $14,444.97, which should be deducted for the reason, as respondents claim, that it represents moneys expended in litigation in which the company were involved by reason occupying and using land without having previously acquired title or right of way, etc. (Vol. 3, p. 583, *et ante.*)

The next is an item of $2,969.40, which appears as betterments in Lewis 26 and 27. Respondents claim it should be deducted for reasons stated in the evidence. (Vol. 3, p. 598, *et ante.*)

The next is an item of $295,470.87. A large part of this amount consists of railroad and bridge material and pay-rolls, which were originally reported to operating expenses by the road department and transferred by the auditor to construction and equipment, and placed upon the books by him in that account.
1192 These items are in addition to the so-called correction entries of June 30, 1873, and June 30, 1874.

As a specimen of the manner in which these road reports were changed, the master refers to Exhibits Lewis 32, 33, 34 and 35, which cover the months of June, July, October and November, 1874.

As has been heretofore stated, Mr. Kelsey testifies that these changes were made by him in pursuance of directions which came to

him either directly or indirectly from the president or general manager of the road.

Of this sum of $388,131.56, the amount of $286,777.34 comprises the total of the items which were transferred by the auditor from the operating expense account, as shown by the reports from the road and other departments, to the account of construction and equipment. And the sum of $8,693.53 consists of items which were taken from the construction and equipment account, as stated in previous vouchers, for reasons suggested in the question in response to which Lewis 26 A and 27 A were prepared. A detailed statement of the items will be found in schedule No. 2, attached to this report.

In view of the confusion and uncertainty introduced into the accounts of this company by the arbitrary and what seem to the master to be an unwarrantable manipulation of the accounts, the master is unable to arrive at any satisfactory answer to the first branch
1193 of this question.

The tables which have already been given based upon Lewis 20, showing the amount charged to construction and equipment, and Lewis 22 and 23, showing the amount actually paid on that account, approximate what the master regards as a fair statement. It is impossible upon the evidence to make a statement which shall show with any degree of reliability how these amounts should be distributed for permanent improvements, betterments, right of way or other real estate. The amount expended for new equipment is given in a separate item in the remarks which follow the tables above mentioned.

As to the last branch of the question which requires the master to state the source from which the funds were obtained, and whether from income or otherwise, it can only be said that the disbursements on account of construction and equipment were made from the general treasury, and it is impossible from the evidence introduced to say whether the funds so used were obtained from income or from other sources.

1194 *Third Question.*—"3. What amount was expended by the receiver on the main line, or on the extension in permanent improvements, right of way or other real estate, new equipment, or for construction after the 1st day of December, 1874, and the sources from which the funds were obtained to make such payments, whether from income or otherwise. The master in making his report upon the points heretofore stated, shall discriminate as far as practicable between what may be considered the mere operating expenses of the railway, and what may be considered as permanent improvements or betterments, or equipment of the road."

In answering this question the master will divide the investigation into fiscal years, beginning with the receivership, December 1st, 1874.

Kelsey 4 contains by years the payments made by the receiver for betterments, etc., on the main line.

For the fiscal year ending November 30, 1875, there was expended on the main line, as appears from this exhibit, the sum of $403,489.84 for extraordinary repairs of road, extraordinary repairs of cars, extraordinary repairs of motive power, right of way, new construction and new equipment. The first three items—

1195 *Main Line.*

Extraordinary repairs	road	$311,274	17
do	do cars	37,140	02
do	do motive power	33,122	18
Total		$381,536	37

—appear on the books as originally entered under the three heads designated as maintenance of road, maintenance of cars, maintenance of motive power. The three remaining items, viz:

Right of way	$17,003	02
New construction	3,100	45
New equipment	8,050	00
Total	$28,153	47

appear upon the receiver's books as entered under those heads, except that the designations "new construction," as appears on Kelsey 4, appears upon the receiver's books under the head of "new work," there being no such account as new construction on the books.

Kelsey 4 and 5 should be considered in connection with Lewis 46.

After the first fiscal year ending November 30, 1875, the amounts and distributions as they appear in Kelsey 4 correspond with the amounts and distributions appearing in Lewis 46, except that Mr. Kelsey includes under the head of new equipment the amounts paid on the purchase (or lease) of the Oliver Adams cars, which items are excluded from Lewis 46.

1196 Kelsey 5 is a statement of the amounts paid by the receiver for betterments, etc., on account of the extension, and for the fiscal year ending November 30, 1875, the following items appear:

Extension.

Right of way	$2,689	59
New work	1,800	00
Total	$4,489	59

which agrees with Lewis 46.

For the fiscal year ending November 30, 1876, there was expended on the

Main Line.

For right of way	$5,679	16
" New equipment	52,221	32
New work, (new construction, Kelsey 4)	15,328	60
" Extraordinary repairs of road	56,626	13
52 Total	$129,855	21

This total is taken from Lewis 46, and gives the amounts and distributions as they were entered upon the receiver's books.

It may be said in addition that the receiver kept a separate account entitled "Oliver Adams contract," which was for the purchase of 500 freight cars; which, according to the stipulations of the written agreements, (copies of which are filed as exhibits,) were to be paid for in monthly installments, the title to vest in the receiver of the road or his successor, whenever they should be paid for in
1197 full. Meanwhile, and until such final payment should be made, the title to remain in the parties for whom Oliver Adams was agent.

Kelsey 4 makes an addition of $13,875.69 to the amount as shown by Lewis 46 on account of this Oliver Adams contract, and it is credited by him in his statement of moneys paid by the receiver for betterments, etc., on the main line for the fiscal year ending November 30, 1876. Making this addition would increase the amount as shown by the above table to the sum of $143,730.90, as shown by Kelsey 4.

The item extraordinary repairs of road appears in both Lewis 46 and Kelsey 4, that account having been opened on the receiver's books in April, 1876.

1198 *Extension.*

For right of way	$2,920	84
" New work	375	45
" Extraordinary repairs—road	509	42
Total	$3,805	71

As *expense* from Kelsey 5, Lewis 46, and receiver's 2d annual report under Exhibit 1 and 2 attached to that report.

For the third fiscal year ending November 30, 1877, there was expended on the

Main Line.

For right of way	$5,381	15	
" New equipment	1,000	00	
" New work	1,660	90—	$8,042 05
Add extraordinary repairs of road	7,129	58	
" " " bridges	9,608	75	
Oliver Adams' contract	52,613	63—	69,351 93
Total			$77,393 98

As appears on Kelsey 4, Lewis 46, and in receiver's 3d annual report.

Extension.

For right of way	$1,402.46
" New work	591.49
1199 " Extraordinary repairs—bridges	135.21
Total	$2,129.16

As appears by Kelsey 5, Lewis 46, and receiver's 3d annual report.

For the fourth fiscal year ending Nov. 30, 1878, there was on the

Main Line.

Right of way	$3,540.62	
New work	10.00	
Total		$3,550.62
Add Oliver Adams contract		50,893.19
Total		$54,443.81

As appears from Lewis 46, Kelsey 4, and receiver's 4 annual report.

Extension.

Right of way	$38.94

As appears on Kelsey 5, Lewis 46, and receiver's 4th annual report.

1200 For the fractional part of the fifth fiscal year from November 30, 1878, to April 11, 1879, there was expended on the

Main Line.

Right of way	$501.45	
Add Oliver Adams contract	18,346.02	
Total		$18,847.47

As appears from Kelsey 4, 11, and Lewis 46.

Extension.

From November 30, 1878, to February 14, 1879:

Right of way	$600.00

As appears by Kelsey 5, 12, and Lewis 46.

These accounts may be summarized as follows:

Main Line.

From November 30, 1874, to April 11, 1879:

For right of way	$32,105.40	
" new work	20,099.95	
" Extraordinary repairs—road	63,755.71	
" Extraordinary repairs—bridges	9,608.73	
" New equipment, not including Oliver Adams contract	55,071.32	—180,641.11
Add (total paid on) Oliver Adams contract		135,728.52
Total		$316,369.63

1201 If we add to this amount the three items shown in Kelsey 4, which are there stated under the heads of extraordinary

repairs—road; extraordinary repairs—cars; and extraordinary repairs—motive power, during the fiscal year ending November 30, 1875, which amount to the sum of $381,536.37, we have the total paid by the receiver for betterments main line during the whole period, viz: $697,906.00.

Extension.

November 30th, 1874, to February 14, 1879:	
Right of way	$7,651.83
New work	2,766.94
Extraordinary repairs—road	509.42
do do —bridges	135.21
Total	$11,065.40

Recapitulation.

Total main line Nov. 30, '74, to April 11, '79	$697,906.00
" extension Nov. 30, '74, to Feb'y 14, '79	11,063.40
Grand total	$708,969.40

The master is of opinion that the items paid on account of the Oliver Adams contract, which aggregate $135,728.52, are fairly chargeable to the equipment account.

As to the items charged to extraordinary repairs of road, the receiver explains that when the road came into his hands on
1202 the 1st of December, 1874, the season was too far advanced to admit of making many needed repairs; that the winter of 1874–5 was a very severe and trying one for railroad property; that the succeeding spring and summer, as is well known, was a year of unprecedented floods in this latitude, resulting in great destruction to the track, embankments and bridges along the line of the road; that by reason of neglect in keeping up the ordinary repairs prior to the receivership, the track and equipment were in bad condition, so much so that the traffic of the road was greatly interfered with; that by reason of these facts, the amounts of money he was compelled to and did expend on the repairs of the road during the first year of his receivership were greatly in excess of an amount which, under ordinary circumstances, should be properly included under the head of operating expenses; and that he made the charges to extraordinary repairs of road, cars and motive power, which have been above indicated, upon what he believed to be a fair allowance in view of these facts.

As has been heretofore stated, these last three items, as they appear upon Kelsey 4, were not so distributed upon the receiver's books as the entries were originally made, and it is for the court to say whether the change made and claimed by the receiver
1203 was under all the circumstances fair. The testimony as to the

be condition of the road when the receiver took possession will found—

(Vol. 1, pp. 45, 259 to 270.)
(Vol. 2, pp. 478, 479, 504 to 535, 536 to 551, 551 to 575.)
(Vol. 3, pp. 32 to 76.)
(Vol. 4, G. E. Howe's examination.)

The master deems it proper to say that the reports of the receiver made from time to time to the court show these distributions; and the receiver being an officer of this court, the master is inclined to accept his official statement upon these points.

The witness Mr. G. E. Howe, who was chief engineer under the receiver, testifies (Vol. 4, pp. 4, 5) that during the receivership instructions were given him how to distribute the work performed in his department to different accounts; that those distributions *that those distributions* were not in accordance with his judgment; that there were a great many things charged to construction account which he did not think should have been so charged, but should have been charged to ordinary repairs; that in frequent instances during the receivership he was directed to so distribute the expenses arising out of the operation and maintenance of the road as
1204 to show a larger per cent. to construction account than should have been shown; and *and* the distributions made under these orders went to the auditor's office.

It is claimed by petitioners that the aggregate sum above named, $697,906.00, (being the amount paid according to Kelsey 4 and the other exhibits which have been heretofore referred to by the receiver on account of betterments, &c.,) there should be added to the

Main line	$19,030.54
Extension	5,635.25
Total	$24,665.79

for payments which it is claimed were made of notes given for right of way before the receivership, and which it is claimed are not included in the aggregate sum above named.

As master understands the evidence, the most, if not all, of this item has already been included in the aggregate above named. (See Ev., Vol. 1, pp. 132, 133.)

As to the other item of $29,042.08, which it is claimed should be added on account of the increase in stores and supplies accumulated during the receivership, the master thinks it should not properly enter into this account, for the reason that it is a single item
1205 which appears on a comparison of the inventory of the property received by the receiver, and the inventory of the property turned over to him by the purchasers, that the value of very few of the articles are stated, and that no fair comparison can be made between them.

I find and report that the receiver taxes that had accrued on the main line—

In the year 1873	$13,239 28
In the year 1874	20,288 55
Total	$33,527 83
That he paid of extension taxes accrued—	
In the year 1874	17,646 47
Total main line and extension	$51,174 30

This computation is based upon Lewis 12 and 15, and the evidence relating thereto found in Vol. 1, pp. 131, 146; Vol. 2, pp. 10, 436. If the court shall hold that taxes accruing prior to the receivership and paid by the receiver are to be considered as expenditures on any of the accounts named in the third interrogatory of the order, this sum should be added to the amount already given.

It may be stated here as to taxes, that taxes when paid were charged out by the company before the receivership, and afterwards by the receiver, under the head of operating expenses, except that
1206 during the receivership an account was opened called "Illinois Taxes," which were never distributed to operating expenses, for the reason that the percentage as between the main line and extension had not been agreed upon when the taxes were paid. This disposes of the items which counsel for the petitioners claim should be added to the sum of $697,906.00, shown by Kelsey 4 and other exhibits as being the amount expended by the receiver for the items enumerated in inventory No. 3.

Fourth Question.—The gross earnings of the railway during the whole period of time before mentioned, namely, from the 1st day of January, 1873, until the receiver relinquished possession of the property, and in the division of time before mentioned, and what remained after deducting from the gross earnings, if anything, for necessary operating expenses, proper equipment, and useful improvements; where any payments shall have been found by the master to have been made, he shall state in what the payments have consisted, whether of cash, or property, or equipment; and where taxes have been paid, either by the company or by the receiver, the master shall report for what, and the dates and amounts thereof.

I report and find the gross earnings of the company from the 1st of January, 1873, until until the receiver relinquished the possession of this property, as follows:

1207 *Gross Earnings prior to Receivership.*

From January 1, 1873, to July 1, 1874	$2,431,587 37	
From July 1, 1874, to Dec. 1, 1874...	712,087 57	
Total.....		$3,143,674 94

(See Lewis 20.)

Gross Earnings during Receivership.

From December 1, 1874, to April 1, 1879, (main line,).....	$5,285,917 56	
From December 1, 1874, to Feb. 14, 1879, (extension,).....	644,185 21	
Total.....		$5,930,102 77
Grand total gross earnings, both periods.....		$9,073,777 71

(See Kelsey 6.)

As will be seen, this total differs from the total gross earnings as stated in the printed argument of Mr. Butler at page 216. Mr. Butler prepares his table upon the basis of gross receipts. As appears from the table at page 119 of Mr. Butler's printed argument, it includes not only the earnings during the period, but the receipts for earnings prior to January 1, 1873. It also includes an item of $24,351.42, cash on hand January 1, 1873.

As the question calls for earnings and not receipts, the master
1208 has excluded the items above named from consideration in the computation he has made. If they were added it would make the total of gross receipts and gross earnings about what petitioners claim, viz: $9,139,980.40.

The operating expenses as shown by exhibits based upon the books irrespective of the so-called correction entries, and regardless as to whether paid or unpaid, during the periods named in the order, were as follows:

Operating Expenses prior to Receivership.

From Jan. 1, 1873, to July 1, 1874.....		$2,151,866 94
From July 1, 1874, to December 1, 1874.....		574,972 12
Total.....		$2,726,839 06

NOTE.—No division of the operating expenses between the main line and the extension can be made from the evidence produced before the master.

Operating Expenses during the Receivership.—Main Line.

From Dec. 1, 1874, to Dec. 1, 1875, (Lewis 44).....		$1,404,581 79
do Dec. 1, 1875, to Dec. 1, 1876, (Rec. 2d an. rep.)		1,229,414 48
do Dec. 1, 1876, to Dec. 1, 1877, (Rec. 3d an. rep.)		906,835 64
do Dec. 1, 1877, to Dec. 1, 1878, (Rec. 4th an. rep.)		994,849 16
do Dec. 1, 1878, to Apr. 1, 1879, (Kelsey 11).....		324,736 37
Total, main line.....		$4,860,417 44

1209 *Operating Expenses during the Receivership.*

Extension.

From Dec. 1, 1874, to Dec. 1, 1875, (Lewis 45)	$151,886	26
do Dec. 1, 1875, to Dec. 1, 1876, (Rec. 2d an. rep.)	192,743	51
do Dec. 1, 1876, to Dec. 1, 1877, (Rec. 3d an. rep.)	186,321	87
do Dec. 1, 1877, to Dec. 1, 1878, (Rec. 4th an. rep.)	200,644	39
do Dec. 1, 1878, to Feb. 14, 1879, (Kelsey 12)	36,161	67
Total, extension	$767,759	70

Recapitulation.

Gross operating of company, January 1, '73, to December 1, '74	$2,726,839	06
Gross operating of company during receivership	5,628,177	14
Total	$8,355,016	20
Total gross earnings of the company and during the receivership	$9,073,777	71
Total gross operating expenses (same period)	8,355,601	20
Balance	$ 718,761	51

These amounts show the gross earnings and the gross operating expenses, received or not, whether paid or unpaid, between January 1, 1873, and the date of the surrender of the property to the purchasers.

In the total of operating expenses as above given are included all such claims for labor and supplies as were charged on the books of the operating expense account prior to the receivership.

It is proper to say, however, that a portion of the claims for labor and supplies left unpaid when the receivership began had been charged on the books to construction and equipment; and
1210 the master is unable from the evidence to determine how much was so charged. The above total of gross operating expenses also includes the claim of the Western Car Company for the use of cars for the six months prior to December 1, 1874. It also includes a claim of the Peoria and Springfield Railroad Company against the receiver for track rental, the amount of which is in dispute, it being estimated at about $50,000.00. It does not include the claim of the Rogers Locomotive and Machine Works against the receiver, which has been paid, nor the sums paid for Illinois taxes.

I further report and find that all payments were made in cash, except an item of $12,000.00 for real estate, to enlarge the Urbana yard, which was paid with bonds of the extension.

I report and find that the aggregate of taxes paid by the receiver under the head of Illinois taxes is $126,480.97, as will appear by reference to Lewis 15. All other taxes paid by the company and the receiver were paid and charged out under the head of operating expenses.

Lewis 12 shows all taxes paid *paid* by the receiver in Illinois and elsewhere. The amount charged upon the books to operating expenses is $53,102.28; paid as Illinois taxes and so charged,
1211 $126,480.97; total, $177,583.25. The dates of payment and the amounts paid are set forth in Exhibits Lewis 12 and 15, and explained in the evidence. (Vol. 1, pp. 131, 146; Vol. 2, pp. 10, 438.) There is no evidence showing what taxes were paid by the company prior to the receivership. That taxes are included in operating expenses on the company's books, see Kelsey 2.

Respondents insist that the claim of the Rogers Locomotive and Machine Works is properly chargeable to operating expenses by the receiver. This claim has been liquidated and decided in this court and paid. The master presents the following table for the information of the court:

1212

Balance of gross earnings after deducting gross operating ex..	$718,761.51	
The Illinois taxes		$126,480 97
Rogers L. & M. Works claim, (amt. paid.)		160,653 38
Payments on acct. Oliver Adams contract, (Kelsey 4.)		135,728 52
Charges to extraordinary repairs, (Kelsey 4 and 5, Lewis 4 6.)		74,009 70
The amount of items charged to construction, equipment, &c., by Lewis 26 and 27, which had been paid and which are taken out of the construction and equipment account and transferred to operating expense account, according to the direction in the question under which Lewis 26 A and 27 A were prepared		388,131 56
Total		$885,003 50

If these are allowed to swell the account of operating expenses, it would appear that the balance above named would not be sufficient to equal them. The item of $388,131.56 is made up of the following particulars:

Amount paid on account of Rogers locomotives, (Vol. 3, p. 324, et ante.)	$31,639 59
The value of iron rail for which steel was substituted, (Vol. 3, p. 558, et ante.)	43,606 73
Right of way, (Vol. 3, pp. 562 to 583, et ante.)	14,444 97
Betterments, (Vol. 3, p. 598, et ante.)	2,969 40
Improperly charged to const'n, (Vol. , p. 657, et ante.)	295,470 87
Total	$388,131 56

For convenience I have prepared and filed herewith a detailed statement of the particulars which make up this amount, and marked it Schedule No. 2.

1213 Of the operating expenses during the receivership, the master has paid through the receiver, by the order of the court,

out of the fund paid into court by the purchasers of the road, receiver's vouchers for operating expenses, the sum of $69,957.49.

The difference between what is stated as the total surplus of net earnings at page 216 of Mr. Butler's printed argument as being $1,692,919.27 and the amount shown by the above tables, viz., $718,761.51, is nearly all accounted for by the fact that the master has adopted as a basis of calculation the distributions as they were originally made, upon the books as unaffected by the correction entries, and without allowing for the further deductions claimed by the respondents growing out of the changes suggested by Lewis 26 A and 27 A as explained in the evidence.

The master has heretofore given a statement of the condition of the road when it came into the possession of the receiver, Dec. 1, 1874, as above shown by the evidence, which has been referred to in connection with that statement.

The evidence of the witnesses who have testified concerning the condition of the road and equipment April 11, 1879, when the receiver surrendered possession to the purchasers, shows that the road and equipment were in much better condition than when it came into possession of the receiver, (see evidence N. J. McConney, Vol. 2, pp. 551 to 575,) who was either conductor or train master during the entire time from the opening of the I., B. & W. Ry. until the appointment of the receiver, and a conductor during the receivership.

1214

Mr. J. D. Swan from the fall of 1870 until the fall of 1878. (Vol. 2, pp. 36 to 551.)

Mr. Byron Hutchinson was a conductor from 1871 to November, 1879. (Vol. 2, p. 504 to 535.)

Mr. G. E. Howe was chief engineer of the road at one time, and employed on the road about eleven years continuously. (Vol. 4, Howe's cross-examination.)

General P. Pease was master of transportation from October, 1875, to February, 1876; general superintendent from February, 1876, to the close of the receivership. (See ex., Vol. 1, pp. 270 to 292.)

General George B. Wright, receiver. (Vol. 1, pp. 270 to 292.)

General Wright testifies (Vol. 1, p. 286) that the value of the property was increased by his rebuilding improvements, betterments and new constructions, $1,000,000.00. But in this connection it is proper to state that out of the fund paid in by the purchasers of the road, there has been paid on account of receiver's debts over $400,000.00. There is no doubt about the fact that the cost and value of the improvements made during the receivership in the condition of the road and equipment, amounted to a large sum over and above the amount of receiver's debts paid by the purchasers of the road. The receiver has in his hands $14,000, and there is a fund of $43,617.00 belonging to the receivership on deposit at Springfield, Illinois.

1215

It is insisted by the respondents that if the road prior to the receivership had been negligently permitted to run down, and the track

and equipment had suffered great deterioration by reason of the failure of the company's officers to make proper repairs when they were needed, there is no equity in the distribution made by the receiver by which he has charged the large amounts which have been named to extraordinary repairs of road, cars, and motive power.

Petitioners answer that the proper way to view the accounts of the receiver is to begin with the condition of the road and equipment as he found them on December 1, 1874, and that whatever might be the true rule of distribution if the road had remained under the management of the company's officers, the receivership broke continuity; and that he is justified in rendering his accounts to distinguish between ordinary repairs such as would have been necessary if the road had been properly kept up to the date of receivership, and
1216 what he designates as extraordinary repairs, being expenses caused by the deterioration of property as the result of previous neglect and mismanagement.

Fifth Question.—"5. The master shall also find and report what property was received by the receiver on the first day of December, 1874, or afterwards under the authority of the court; whether the same was real, personal or mixed, and also what property of the same character was surrendered by the receiver to the purchasers."

I report and find that a complete inventory of the property taken possession of by the receiver December 1, 1874, is found in the receiver's first report, produced in evidence here as Exhibit Kelsey 3, from page 4 to 15 inclusive. This inventory simply contains a list of the articles received; no values being given except as to material on hand at the shops and fuel on hand, which items form a very small part of the property contained in the inventory.

The property delivered by the receiver to the purchaser of the road on the 11th of April, 1879, is set forth in an inventory, a copy of which, certified to by the receiver, is introduced in evidence as Exhibit Wright No. 4.

1217 In submitting this report, the master is conscious of the fact that his labors have been imperfectly performed. The confused state of the back accounts growing out of the arbitrary interference of the superior officers of the company, with those who had charge of the accounting department, and the fact that the accounts never were classified upon the books of the company, or the receiver, under the heads of distribution contemplated in the questions contained in the order of the court, make it almost impossible to reach a satisfactory conclusion.

The master believes, however, that the evidence and the report present facts which will enable the court to adjudicate the rights of the parties on an equitable basis.

After the conclusion of the argument the master soon discovered that it would be entirely impossible for him to prepare his report within the time limited, without availing himself of the assistance of a competent accountant.

At my suggestion, the witness Mr. Lewis, who has prepared nearly

all the exhibits in the case, made most of the computations upon which I have based my answers.

These computations were made in my presence and in the manner required by me. It is also proper to state that the schedules of vouchers and pay-rolls originally reported as operating ex-
1218 penses, which is appended to this report, was prepared at my instance by Mr. Lewis.

I append hereto a schedule of the items of evidence produced before me.

Since the above was prepared, it has occurred to the master that something should be said concerning one branch of the controversy that has been argued at greater length than other. I allude to the evidence out of which counsel on both sides have endeavored to construct a statement of the loan account of the company.

As has been heretofore stated, the three sources from which the company derived its revenue during the periods covered by the order, were gross earnings, borrowed money, and sale of extension bonds.

In the course of the examination of the witness Lewis, from whom all the facts were obtained on this subject, sundry exhibits were prepared and presented by him, in which he attempted to analyze the loan account, showing the amounts borrowed from and repaid to Turner Brothers, the amounts realized by extension bonds, and the amounts realized from outside loans other than the sources just named.

1219 After a protracted examination it was discovered that an error of $500,000,000 had been made in the statement of the Turner Brothers' account.

It became necessary in order to rectify the error to prepare new exhibits, the object of which was to settle the loan account upon what the witness, after a careful examination, decided was the correct basis. Finally the witness prepared a condensed statement, viz., Lewis 38 X, which professes to give the result of his final corrections, after a review of all his previous exhibits relating to the same matter. In 38 X the net balance of the loan account is stated to be $1,072,050.79, which the master believes upon all the evidence is a correct statement of the balance. At least, it is more satisfactory than any result which can be arrived at by a comparison of all the exhibits put in by the witness, with his various explanations.

The master believes it is a statement made in good faith by Mr. Lewis of the actual results of all the facts which he has testified to on bearing on this point. Add to this the amount realized from extension bonds, $673,695.77, and we have a total of $1,745,746.56. After this it appears that $153,916.97 was paid to the contractors on the extension. Deducting this we have a balance remaining of loans and proceeds of bonds, $1,591,829.59.

1220 Counsel for respondents take this amount as being an available fund with which to pay all the coupon interest and all the cost of construction and equipment during the periods named.

By reference to Lewis No. 22, it will be seen that the total amount paid—

For construction from July, 1873, to Dec., 1874.....	$779,046 37
For equipment " " (Lewis 23,)	110,018 33
For coupon interest from July, 1873, to Dec., 1874, (Lewis 38 X,)	955,738 91
Total.....	$1,844,803 61

which exceeds the net balance of loans and proceeds of the sale of extension bonds, as above stated, $252,974.12.

In addition to this respondents say that if the items contained in schedule No. 2 attached to this report showing amounts of vouchers and pay-rolls originally reported as operating expenses, and entered on the report to construction and equipment account, should be transferred to operating expenses, that it would more than dispose of the balance last above named.

The object of this statement is to show that enough money was realized from loans which were not repaid, and from the proceeds of the sale of extension bonds, to have paid the construction and equipment account in full.

On the other hand, Mr. Butler, adopting another set of ex-
1221 hibits furnished by the same witness and placing his construction upon them, arrives at the conclusion stated on page 45 of his printed argument, that the net balance of loans, Turner account—

From January 1, 1873, to July 1, 1874, is.....	$269,563 79
From other sources.....	308,800 13
Total.....	$578,363 92

In the time limited for the filing of this report the master finds it impossible to make ——— of the conflicting evidence upon this point. As stated by Mr. Butler in his argument: "Upon this point there "is much conflict. A vast amount of testimony has been taken, and "many exhibits have been made. All the evidence on this subject "comes from the witness Mr. A. P. Lewis, secretary and treasurer "of the old company during the entire period, and also treasurer for "the receiver."

I have already alluded to the confusion that has been introduced into this branch of the case by the conflicting statements of the witness growing out of his effort to construct exhibits to meet the theories of counsel on both sides by whom he was employed to perform the work. As heretofore stated, the master feels last revised statement of the witness, viz., Lewis 38 X, which professes to give an account of the receipts and disbursements; and yet I do this after much hesitation and without a very firm confidence in its
1222 accuracy.

It may be proper in addition to add a statement concerning

the table upon page 33 of this report, which shows the payment of moneys on account of coupon interest. That table shows that there was paid on account of interest on the main line—

From July 1, 1874 to Dec. 1, 1874	$199,335 67
do do do do (Extension,)	18,876 08
Total	218,211 75

The evidence does not show that these payments during that last period, but that the entries on the books showing these disbursements are dated July 1, 1874, and July 24, 1874.

Mr. Lewis testifies, and there is no dispute about the fact, that the coupon interest matured on the first days of January and July, April and October. That the first interest which was defaulted was the coupon maturing July 1, 1874, and that the deposits to pay coupon interest, as in Lewis 16, must have been in the course of business made in New York prior to the first day of April, 1874. So that while it appears that entries were made upon the books of these deposits as late as July, 1874, the deposits themselves had really been made in New York at least three months before that time.

1223 There is no evidence tending to show that coupons maturing April 1, 1874, with the exception of one $35.00 coupons were presented and paid after July, 1874. The fact is that the evidence is not clear upon the point. And in concluding that no interest was paid on coupons after July 1, 1874, the master acts upon his knowledge of the course of business in accordance with which coupons, when funds are provided to meet them, are promptly presented and paid at maturity. The effect of this would be to show that the entire amount of $955,738.91, as appears at page 33 of this report as having been deposited for the payment of coupons interest, was paid out, as far as any of it was paid, between January 1, 1873, and July 1, 1874.

Respectfully submitted.

WILLIAM P. FISHBACK,
Master.

May 18, 1881.

1224 List of exhibits provided with a statement of their contents and references to the evidence explanatory thereof.

Kelsey's Exhibits produced on examination in chief.

Kelsey No. 1 proposes to give a tabulated statement of the gross earnings of the company from January 1, 1873, to December 1st, 1874, by months, and the expenses including rentals, under the following subdivisions, viz:

Gross earnings, expenses, and rentals, and constructions and equipment, as effected by the correction entries of June 30, 1873, and June 30, 1874.

This exhibit is explained (Vol. 1, pp. 11, 104, 106, 109; Vol. 2, pp. 5, 6, 404, 405; Vol. 3, pp. 99, 508.)

Kelsey No. 2 gives a list of the items under which operating expenses were distributed; explained (Vol. 1, pp. 16, 202.)

Kelsey 3 is the printed report of George B. Wright, receiver, filed in the State courts, March 19, 1875, and is explained (Vol. 1, pp. 6, 110, 274.)

1225 Kelsey No. 4 is a statement of moneys paid during the years ending November 30, 1875, 1876, 1877, 1878, and the fractional part of the fiscal year from November 30, 1878, to April 11, 1879, by the receiver for betterments, &c., on the main line; with the items of payments properly classified. This exhibit is referred to (Vol. 1, pp. 27, 28, 36, 39, 117; Vol. 2, p. 431; Vol. 3, p. 183.)

Kelsey No. 5 shows the same items of expenditures for the same period upon the extension, and is explained (Vol. 1, pp. 42, 141, 119.)

Kelsey 6 shows the gross earnings, operating expenses, and rentals on the main line and the extension of the receiver for the periods mentioned in Kelsey 4 and 5, and also the gross earnings, operating expenses, and rentals under the company's management from January 1, 1873, to November 30, 1874. This exhibit is referred to (Vol. 1, pp. 48, 121, 124, 141, 145, 433.)

Kelsey No. 7 consists of Exhibit No. 1 of the receiver's fourth annual report, showing the earnings and expenses of the receiver for the fiscal year ending November 30, 1878. Explained (Vol. 1, pp. 51, 52; Vol. 3, p. 146.)

1226 Kelsey No. 8 contains a statement of the certificates of indebtedness by the receiver, specifying the purposes for which issued, and the amount of such certificates paid by the receiver and by the master. Referred to (Vol. 1, pp. 56, 125.)

Kelsey No. 9 shows the assets and liabilities of the receiver, April, 1879. Referred to (Vol. 1, pp. 62, 126.)

Kelsey No. 10 shows the vouchers or pay-rolls charged to construction and equipment from and including January, 1873, to December 1, 1874. (Vol. 2, p. 51; Vol. 3, p. 508.)

Kelsey No. 11 shows the earnings of the main line from December 1, 1878, to April 30, 1879, and also the operating expenses for the same period. Referred to (Vol. 2, p. 387.)

Kelsey No. 11½ is a report of the labor performed and the materials used at the Urbana shops on account of operating expenses and constructions and equipment during the month of January, 1873. Referred to (Vol. 2, p. 237.)

1227 Kelsey No. 12 shows the earnings and operating expenses of the extension from December 1, 1879, to February 28, 1879, with a proper classification of the items entering into these accounts. Referred to (Vol. 2, p. 277.)

Kelsey No. 12½ is a report of labor performed and materials used at the Urbana shops for operating expenses and construction and equipment during the month of February, 1873, with a proper classification of the items. Referred to (Vol. 2, p. 277.)

Kelsey No. 13 is a statement of re-rolled new iron and steel rails purchased from January 1, 1873, to December 1, 1874. Referred to (Vol. 2, p. 389.)

Kelsey Exhibits produced on re-direct examination.

Kelsey A, B, C, D and E are statements that were made up after the so-called correction entries of June 30, 1873, and 1874, and annual statements made for those two years, viz., 1873 and 1874. Referred to (Vol. 3, pp. 698, 699.)

1228 *Lewis Exhibits produced on examination in chief.*

Lewis 1 is a statement of the coupon interest paid on the 1st and 2d mortgage bonds, main line, between January 1, 1873, and July 1, 1874. Referred to (Vol. 1, pp. 92, 159.)

Lewis 2, of coupons paid on the extension 1st mortgage bonds between January 1, 1873, and July 1, 1874. Referred to (Vol. 1, pp. 93, 159.)

Lewis 3 shows the extension bonds sold as cash (or used as cash) between January 1st, 1873, and December 1, 1874, except those paid to contractors. Referred to (Vol. 1, pp. 95-184; Vol. 3, p. 252.)

Lewis 4 is a detail of loans made from January 1, 1873, to July 1, 1874. Referred to (Vol. 1, pp. 95, 96, 190, *et seq.*; Vol. 3, p. 244, *et seq.*)

Lewis 4 A was put in by Mr. Lewis on his own account, and is a statement of company notes given to take up Turner Bros.' acceptances. Referred to (Vol. 3, p. 244.)

1229 Lewis 4 B was also put in evidence by Mr. Lewis on his own motion, and is an aggregate statement of loans made and loans paid from January 1, 1873, to July 1, 1874, and also all payments made from July 1, 1874, to December 1, 1874. Referred to (Vol. 3, pp. 268–477.)

Lewis 4 C is a statement of the notes given in renewal of notes for loans made prior to January 1, 1873. Referred to (Vol. 3, p. 373.)

Lewis 4 D is a statement of the notes given to renew other notes for loans between January 1, 1873, and July 1, 1874, and is explained (Vol. 3, p. 374.)

Lewis 4 E is a statement of original new indebtedness loans (notes) between January 1, 1873, and July 1, 1874. Explained at (Vol. 3, p. 374.)

Lewis 5 is a detail statement of loans paid from January 1, 1873, to July 1, 1874, and is explained (Vol. 1, pp. 96–193.)

Lewis 5 A shows the loans in Lewis 5 paid by renewals, and is explained at (Vol. 3, p. 479.)

Lewis 5 B shows loans in Lewis 5 paid by cash. Explained (Vol. 3, p. 479.)

1130 Lewis 6 is a statement of the extension bonds hypothecated, and is explained at (Vol. 1, p. 99.)

Lewis 7 is a tabulated statement of the construction and equipment account from January *from January* 7, 1873, to December 1, 1874, also the operating expenses of the old line by months, giving the distributions under the heads of betterment, right of way, equipment, construction, and operating expenses; and will be seen Lewis

7 does not vary materially from Kelsey 1, and is explained at (Vol. 1, pp. 102, 194; Vol. 2, pp. 5, 6, 404, 405.)

Lewis 8 shows the operating expenses as remaining unpaid December 1st, 1874, and is referred to and explained (Vol. 1, p. 107; Vol. 2, pp. 8, 9.)

Lewis 9 is a statement of the amount remaining unpaid December 7, 1874, that was charged to construction and equipment between January 1, 1873, and December 1, 1874, except the account of the construction for the extension. Explained at (Vol. 1, p. 108.)

1231 Lewis 10 is a statement of the amounts charged and credited to George B. Wright, receiver, on account of the I. B. & W. R'y. Explained at (Vol. 1, p. 111; Vol. 2, p. 10.)

Lewis 11 is a statement of new equipment acquired by the receiver and explained (Vol. 1, p. 30; Vol. 2, p. 10.)

Lewis 12 is a detail statement of all taxes paid by the receiver. Referred to and explained (Vol. 1, p. 131; Vol. 2, p. 10.)

Lewis 13 and 14 show the heads under which operating expenses and disbursements in the receiver's reports. Explained at (Vol. 1, p. 143.)

Lewis 15 is a statement of the taxes paid by the receiver for the years 1873 to 1877 inclusive on the main line and extension and charged as "Illinois Taxes." Explained in (Vol. 1, p. 146; Vol. 2, p. 438.)

1232 *Lewis Exhibits produced on cross-examination.*

Lewis 16 is a statement of deposits, &c., to pay coupon interest on the 1st and 2nd mortgages on the main line and the 1st mortgage on the extension, and is explained (Vol. 1, p. 106; Vol. 3, pp. 97–111.)

Lewis 17 is a statement from the bills-payable account for notes outstanding on December 1st, 1874, for loans of cash. and on the Turner Bros.' aacceptance account, and is explained (Vol. 1, p. 191.)

Lewis 18 and 19 are copies of the so-called correction entries, being copies of the entries on the books made June 30, 1873, and June 30, 1874, and is explained (Vol. 1, pp. 197–202; Vol. 3, p. 124, and elsewhere in the evidence.)

Lewis 20 is a statement of the gross earnings, operating expenses, and construction and equipment accounts, from January 1, 1873, to December 1, 1874, and as originally charged on the books, irrespective of the so-called correction entries, and is explained (Vol. 2, pp. 98, 328, 404, 405; Vol. 3, pp. 94, 474.)

1233 Lewis 21 is a detail statement of the construction and equipment account from June 1, 1874, to December 1, 1874, and is explained (Vol. 1, p. 224; Vol. 3, p. 471 to 474.)

Lewis 22 is a statement of the construction account, showing amounts paid and not paid, by months, from January 1, 1873, to December 1, 1874, and is explained (Vol. 1, p. 242.)

Lewis 23 is a statement of the equipment account, showing the

amount paid and not paid, by months, from January 1, 1873, to December 1, 1874, and is explained (Vol. 1, p. 242; Vol. 3, p. 382.)

Lewis 24 is a statement of the construction and equipment account from January 1, 1873, to December 1, 1874, by tables, and is explained (Vol. 1, p. 243.)

Lewis 25 is a statement of the operating expenses account from January, 1873, to December, 1874, by tables, and is explained (Vol. 1, p. 243.)

1234 Lewis 26 and 27 contain the details of the distributions shown in Lewis 7 for the years 1873 and 1874, and are made up on the actual construction account as charged upon the books, without reference to the so-called correction entries of June 3, 1873, and June 30, 1874, contained in Lewis 18 and 19. These exhibits are explained (Vol. 2, pp. 95, 202, 207, 328, 391.)

Lewis 26 A and 27 A are statements prepared in accordance with a question propounded by counsel for respondents, which will be found at pp. 407 to 412, inclusive, Vol. 2.

Lewis 28 is a statement of fees paid Weldon & McNulta at Bloomington, Ill., for legal services, and is explained (Vol. 2, p. 116.)

Lewis 29 is a similar bill of McDonald & Butler at Indianapolis, Indiana, and is explained (Vol. 2, p. 120.)

Lewis 30 is a specimen of blank sheet showing the method of distribution *of distribution* of the construction and equipment account, as kept in the company's books, and is explained (Vol. 2, p. 121.)

1235 Lewis 31 is a journal entry of sundries to Urbana shops, and is explained (Vol. 2, p. 160.)

Lewis 32 is a journal entry showing road, bridge and building material used in the month of July, 1874, and its original distribu—— of operating expenses and construction and equipment, and the arbitrary change made by the auditor. This exhibit is explained (Vol. 2, p. 164.)

Lewis 33 is a report of road and bridge material used in the month of October, 1874, distributed under the head of operating expenses and construction and equipment, and is explained (Vol. 2, p. 164.)

Lewis 34 is a report of bridge and road material in November, 1874, distributed under the head of operating expenses and construction, and is referred to and explained (Vol. 2, p. 298.)

Lewis 35 is a report of road and bridge material used in the month of June, 1874, distributed under the head of operating expenses and construction. Referred to and explained (Vol. 2, p. 199.)

(There is no exhibit "Lewis 36.")

1236 Lewis 37 is a statement of the Turner Bros.' acceptances. Referred to and explained (Vol. 3, p. 288.)

Lewis Exhibits

produced on re-direct examination, either prepared at request of counsel for petitioners or presented by the witness of his own motion.

Lewis 38 is a statement of gross receipts from January, 1873, to December, 1874. Referred to and explained (Vol. 3, p. 439.)

Lewis 38 A is a statement of notes (loans) prior to January 1, 1873, paid after that date. Referred to and explained (Vol. 3, p. 391.)

Lewis 38 B is a statement of notes paid after January 1, 1873, given prior to that date, and for what account. Referred to and explained (Vol. 3, p. 391.)

Lewis 38 C is a statement of the original dates of notes outstanding December 1, 1874, for cash loans made between January 1, 1873, and December 1, 1874, excluding renewals. Referred to and explained (Vol. 3, p. 397.)

1237 *Lewis* 38 *D* is a detailed statement of part of item "11" in Lewis 38, being the vouchers charged direct to construction and equipment in 1872, and paid after January 1st, 1873. Referred to and explained (Vol. 3, p. 426.)

Lewis 38 *E* is a statement of interest and discount account (not charged to operating expenses) paid between January 1, 1873, and December 1, 1874, referred to and explained (Vol. 3, p. 439.)

Lewis 38 *F* is a statement of charges to income account paid after January 1, 1873, not included in operating expenses from January 1, 1873, to December 1, 1874. Referred to and explained (Vol. 3, p. 440.)

Lewis 38 *G* is a detailed statement of vouchers and pay-rolls for the year 1872, charged direct to construction and equipment. Also road and bridge material, shop supplies and labor which were paid in the year 1873 and 1874, with the explanation of the head of the department by whom the distributions were made. Referred to and explained (Vol. 3, p. 482.)

1238 *Lewis* 39 is a statement of iron and steel rail bought and iron re-rolled. Receiver's account from December 1, 1878, to April, 1879. Referred to and explained (Vol. 3, p. 478.)

Lewis 40 is an analysis of the treasurer's cash account, giving his receipts and disbursements from January, 1873, to December, 1874, by months. Referred to and explained (Vol. 3, p. 555.)

Lewis 41 is a statement of the number of men on the pay-rolls by sections from January, 1873, to December, 1874. Referred to and explained (Vol. 3, p. 661.)

Lewis 42 is a similar statement of the number of men on the pay-rolls on extra gangs, construction and wrecking trains, covering the same periods. Referred to and explained (Vol. 3, p. 666.)

Lewis 43 is the pay-roll of section men and extra gangs distributed between construction account and operating expense account from January, 1873, to December, 1874. Referred to and explained (Vol. 3, p. 666.)

1239 *Lewis Exhibits produced on re-cross examination.*

Lewis 44 is a statement of the earnings and expenses of the main line from December 1, 1874, to December 1, 1875. Referred to and explained (Vol. 4, p. 105.)

Lewis 45 is a statement of the earnings and expenses I., B. & W.

extension from December 1, 1874, to December 1, 1875. Referred to and explained (Vol. 4, p. 106.)

Lewis 46 is a statement of the receiver's expenditures on account of the main line and the extension for right of way, new work, extraordinary repairs of road, extraordinary repairs of bridges, new equipment, for the years 1875–'6–'7–'8 and '9. Referred to and explained (Vol. 4, p. 107.)

Thomas' Exhibit introduced on cross-examination.

Thomas No. 1 contains a statement showing the iron rail re-rolled by the Indianapolis Rolling Mill Company for the I., B. & W. Ry. Co. prior to the receivership. Referred to and explained. (Vol. , p. .)

1240 *Wright Exhibits.*

The Oliver Adams contracts and Wright No. 4, being an inventory of property turned over to the purchasers of the I., B. & W. Ry. by General Wright, receiver, on April 11, 1879. Referred to and explained (Vol. 4, p. .)

Also sundry items of documentary evidence by the petitioners, which are specified in Vol. 3, at p. 772 to 777, inclusive.

W. P. FISHBACK,
Master.

1241 *Schedule No.* 2.

Vouchers and pay-rolls originally reported as operating expenses, entered upon the books as construction and equipment, from June 1, 1873, to Dec. 1, 1874. See evidence, vol. 3, p. 598–657.

Page.	Vouchers.		Amount.
	1873.		
602	162, Apr.	H. Honscheidt, Shf	$13 75
603	202, "	A. Snedeker	1,026 44
605	"	Shop Labor and Mat	10,001 00
606	"	Pay-Rolls	6,033 66
"	223 "	Crearer, Adams & Co	326 75
"	"	Road Material	9,328 22
609	"	Fuel	1,000 00
610	223, May	Frog steel	239 65
611	226 "	Cleveland R. M. Co	1,614 67
612	245 "	Layman, Carey & Co	349 30
613	"	Shop Labor & Mat	11,000 00
"	"	Fuel Report	2,500 00
"	"	Road Material	27,055 70
"	"	Pay-Rolls	10,951 75
615	254, June.	Dichis Bdg. Car	28 34
"	253 "	Stove "	65 90
"	259 "	Steel crossings	425 00
"	260 "	Frogs & Chairs	1,003 96
616	261 "	Freight	25 24

616	264	June	Repairs Plough	$21 00
"	265	"	Spades, &c	13 50
"	282	"	Shovels, &c	143 68

1242 1873.

616	384,	June.	Board Bill	16 00
"	285	"	Mattresses	67 50
"	286	"	Frog Steel	241 42
617		"	Pay Rolls	12,378 15
618		"	Shop Labor & Sup.	10,162 62
"		"	Road Material	7,473 53
"		"	Fuel Report	3,000 00
623		July.	Road Material	29,998 03
627		Aug.	do	4,732 05
628		Sept.	do	8,428 31
637		Oct.	do	13,758 75
638		Nov.	do	5,881 84
639		Dec.	do	891 15
		1874.		
640		Jan.	do	14,596 99
644		Feb.	do	10,203 71
647		Mar.	do	1,242 41
648		Apr.	Pay Rolls	5,208 00
649		"	do	1,064 35
649		"	Shop Labor & Mat	5,000 00
650		"	Road & B. Mat	3,863 68
651		May.	do	3,073 26
652		June.	do	8,234 92
653		July.	do	10,835 38
"		Aug.	do	12,557 96
"		Sept.	do	9,050 69
656		Oct.	do	8,712 36
"		Nov.	do	12,936 77
		Total		$286,777 34

W. P. FISHBACK, *Master.*

1243 *Schedule of Evidence Introduced.*

The written evidence of the witnesses taken down by the stenographer contained in bound volumes Nos. 1, 2, 3, and 4, filed with this report and identified by my endorsement.

Also the documentary evidence referred to and introduced in connection with the evidence contained in said volumes.

W. P. FISHBACK, *Master.*

And afterwards, to wit, at the May term of said court, on the 28th day of May, A. D. 1881, before the Honorable Walter Q. Gresham, one of the judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the Western Car Company and other intervening petitioners, by Messrs. McDonald and Butler, their solicitors, and file their exceptions to the master's report herein in the words following, to wit:

1244 EXCEPTIONS TO MASTER'S REPORT.

The petitioners hereby except to the master's report filed herein, on May 18th, 1881, upon the following grounds of exceptions:

First Question.

1st. In this, to wit: That the master has found the amount paid out by the company between January 1st, 1873, and December 1st, 1874, on account of coupon interest, to be only the sum of 958,098.-91; whereas under the evidence introduced, and in accordance with the facts proved, the master should have found the total amount paid out by the company, during the said period above mentioned, on account of coupon interest, to be $1,337,552.02.

2. In this, to wit: That the master has entirely omitted from his tabular statement giving the amount paid out on account of coupon interest between January 1st, 1873, and December 1st, 1874, the sum of $155,000, clearly shown by the evidence to have been paid out by the company during said period upon account of coupon interest.

3. In this, to wit: That the master has entirely omitted from his tabular statement giving the amount paid out on account of coupon interest between January 1, 1873, and December 1, 1874, the
1245 sum of $226,813.11, paid out by the company during said period upon interest on money borrowed to pay coupon interest with, and therefore directly chargeable to the account of coupon interest, as is shown by the evidence.

4. In this, to wit: That the master has not, anywhere in his said report, charged the payment of the said two items mentioned in above exceptions 2 and 3, amounting in the aggregate to $381,813.-11, against the receipts of the company, although the testimony clearly shows that said sum of $381,813.11 was paid out by the company from its treasury between January 1, 1873, and December 1, 1874, and should be charged against the receipts of the company for the same period. And in this, to wit: That the master in his several tables giving the amounts paid out during this period for coupon interest, new equipment and construction, has entirely omitted from his computation the said two items named in exceptions 2 and 3, amounting in the aggregate to $381,813.11, although he, by said report, finds in substance that said two items should be charged to the account of coupon interest, or to the construction and equipment account.

5. In this, to wit: That the master, after finding on page 31 of his said report, that $235,142.55 was paid out by the com-
1246 pany directly upon coupon interest, between July 1, 1874, and December 1, 1874, on pages 79 to 81 of said report the

master contradicts his said finding as to the times of payment, and in substance states that said $235,242.55 was paid out *prior* to July 1, 1874, instead of between July 1, 1874, and December 1, 1874, to which said latter statement of said master petitioners except as wholly unsustained by the evidence.

Second Question.

6. In this, to wit: That the master finds (see pages 39 and 48 of report) the amount properly chargeable to construction and equipment account, accruing from January 1, 1873, to December 1, 1874, to be only the sum of $1,517,267.38; whereas, under the testimony, and in accordance with the facts proved by the preponderance of the evidence, the master should have found said amount to be $2,274,466.41. And in this, to wit: That the master has based his said finding upon exhibit "Lewis 20," thereby omitting the "correction entries;" whereas, under the evidence, he should have included said "correction entries," and should have based his said findings upon exhibits "Kelsey 1" and "Lewis 7," and the many proved facts and exhibits corroborating and supporting exhibits "Kelsey 1" and "Lewis 7."

7. In this, to wit: That the master finds (see report, page
1247 40) the amount actually paid on construction and equipment, accrued from January 1, '73, to December 1, '74, to be $889,-064.70; whereas, under the testimony, and in accordance with the facts proved by the preponderance of the evidence, the master should have found the amount paid out upon construction and equipment, accrued from January 1, '73, to December 1, '74, to be the sum of $1,514,982.32. And in this, to wit: That the master has based his said finding upon exhibits "Lewis 20, 22 and 23;" whereas he should have based his said findings upon "Kelsey 1," "Lewis 7," "Lewis 9," "Lewis 24," and the testimony and exhibits corroborating and supporting said exhibits.

8. In this, to wit: That the master finds (see report, page 40) that there remained unpaid the amount properly chargeable to construction and equipment account, accrued during said period, the sum of $628,202.68; whereas, under the testimony, the master should have found said sum remaining unpaid on construction and equipment account to be $759,484.09. And in this, to wit: That the master's said finding is not supported by the evidence, but is directly contradicted by exhibits "Lewis 9," "Lewis 22 and 23," and by "Lewis 24."

1248 9. And in this, to wit: That the master has entirely omitted from his finding purporting to give the amount actually paid out and expended by the company from January 1, 1873, to December 1, 1874, for permanent improvements, betterments, right of way, or other real estate, new equipment, and for construction, the sum of $153,916.97, which the testimony clearly and absolutely proves was paid out during said period for construction of the extension, accrued during said period.

10. In this, to wit: That the master has entirely omitted from his finding purporting to give the amount actually paid out and expended by the company from January 1, 1873, to December 1, '74, for permanent improvements, betterments, right of way, or other real estate, new equipments, and for construction, the sum of $17,000, paid by the company from its treasury during said period, to procure the construction of elevators upon the line of its railway at the cities of Peoria, Illinois, and Indianapolis, Indiana, as shown by the evidence, which sum was and is properly chargeable to the construction and betterment account.

11. In this, to wit: That the master has entirely omitted
1249 from his finding purporting to give the amount actually paid out and expended by the company Jan. 1, '73, to Dec. 1, '74, for permanent improvements, betterments, right of way, or other real estate, new equipments, and for construction, the sum of $135,600, paid by the company from its treasury during said period, to repay borrowed money that was borrowed for and expended in payment for coupon interest, new equipment or construction, as is clearly proved by the evidence, and substantially admitted by the master in his said report.

12. In this, to wit: That the master has entirely omitted from his finding purporting to give the amount actually paid out and expended by the company from Jan. 1, '73, to Dec. 1, '74, for permanent improvements, betterments, right of way, or other real estate, new equipment, and for construction, the sum of $263,189.11, paid out by the company during said period, in payment for new equipment purchased prior to January 1st, 1873, as is proved by the testimony beyond any doubt.

13. In this, to wit: That the master has entirely omitted from his finding purporting to give the amount actually paid out and expended by the company from Jan. 1, '73, to Dec. 1, '74, for
1250 permanent improvements, betterments, right of way, or other real estate, new equipment, and for construction, the sum of $614.30, paid out by the company during said period, in payment for construction supplies purchased prior to Jan. 1, '73, as proved by uncontroverted testimony in the record.

14. In this, to wit: That the master has entirely omitted from his finding purporting to give the amount actually paid out and expended by the company from Jan. 1, '73, to Dec. 1, '74, for permanent improvements, betterments, right of way or other real estate, new equipment, and for construction, the further sum of $25,906.89 paid out by the company during this period in payment for construction material purchased prior to Jan. 1, 1873, as is proved by undisputed evidence in the record.

15. In this, to wit: That the master in his said finding purporting to give the amount actually paid out and expended by the company from Jan. 1, '73, to Dec. 1, '74, for permanent improvements, betterments, right of way or other real estate, new equipment, and for construction, has, in addition to his admission of the "correction en-

tries" mentioned in exception 6, entirely omitted from his said finding the sum of $596,227.27, that sum being the aggregate amount of the several items mentioned in exceptions 9, 10, 11, 12, and
1251 13 and 14, although the evidence in the record clearly and beyond controversy proves that said amount was actually paid out by said company between Jan. 1, '73, and Dec. 1, '74, for permanent improvements, betterments, right of way or other real estate, new equipment, and for construction.

Receivership.—Third Question.

16. In this, to wit: That the master in his finding purporting to give the amount expended by the receiver "in permanent improvements, right of way or other real estate, new equipment, or for construction" after December 1, 1874, has given said amount as being $708,969.40; whereas, under the evidence, and in accordance with the facts proved, he should have found and reported said amount to be $827,127.78. And in this, to wit: That the master in his said finding has entirely omitted the sum of $24,665.79 paid out by the receiver on right of way, notes, and contracts for right of way issued by the company prior to the receivership, and which said amount is not included in the account as given in said finding, as is clearly established by the testimony. And in this, to wit: That the master has entirely omitted from his said finding the sum of $29,042.08
1252 for increase in money value of stores and supplies on hand when the receiver surrendered the property, over and above the money value of articles of like character received by the receiver when he took possession of the property. The evidence proving this amount of increase is clear, explicit, and undisputed.

And in this, to wit: That the master has entirely omitted from his said finding the sum of $64,582.05 paid out by the receiver upon taxes that had accrued against and were a lien upon the property at the time the receiver took possession of it.

The evidence proving the payment of this amount upon taxes accrued *accrued* prior to the receivership is direct and uncontradicted.

Fourth Question.

17. In this, to wit: That the master finds and reports the gross earnings from Jan. 1, '73, to July 1, '74, to be only the sum of $2,431,587.37; whereas the evidence clearly proves that the company received in cash during said period, from gross earnings, $2,535,044.23, even if the $24,351.42 mentioned by the master is not taken into account. If the said $24,351.42 is included, as petitioners claim it should be, under the evidence, the master should have found the total amount received by the company from Jan. 1, '73, to July 1, '74, in cash, from gross earnings, to be $2,559,395.65.
1253 And in this, to wit: That the master finds and reports the gross earnings from July 1, '74, to Dec. 1, '74, to be only the sum of $712,087.51; whereas the evidence proves beyond doubt that the company actually received in cash, between July 1, '74, and Dec. 1, '74, from gross earnings, the sum of $761,569.58; which last-named

sum petitioners claim the master, under the evidence and the order of court, should have found.

Petitioners claim that the spirit and meaning of the order of court requires the master to find and report the amount received by the company during the periods named from gross earnings, and that to exclude from the computation all receipts from gross earnings received during said periods, *excepting receipts from earnings accrued during these periods*, is to put a strained and narrow construction upon the order, not intended or contemplated by the court. And in this, to wit: That the master finds and reports the gross earnings of the main line during the receivership to be $5,285,917.56; whereas under the evidence, and in accordance with the facts clearly proved, the master should have found said gross earnings to be only the amount of $5,174,829.98. The master has included in his said finding $111,087.58, charged by main line against extension for
1254 rent of locomotives and cars, which sum was credited by main line to its gross earnings account. The evidence clearly proves that this charge should never have been made; that it is not an earning of main line, and is not an operating expense of the extension; and so the master should have found. And in this, to wit: That the master finds and reports the gross earnings for the entire period covered by the order of the court to be $9,073,777.71; whereas, under the testimony, and in accordance with the facts proved, he should have found the gross earnings for said entire period to be $9,139,980.40.

18. In this, to wit: That the master finds and reports the operating expenses of the company from Jan. 1, '73, to Dec. 1, '74, to be $2,426,839.06; whereas, under the evidence, and in accordance with the facts proved, the master should have found said operating expenses to be $1,994,414.30. This difference consists mainly of the "correction entries" are put into operating expenses by the master; whereas, under the facts proved, they should remain in the construction account, where they were placed by the final distribution made by the officers of the company charged with the duty of distributing the accounts.

1255 19. In this, to wit: That the master in giving his table purporting to contain the main line operating expenses for the first year of the receivership, has given said operating expenses of main line for said year at $1,404,581.79; whereas, under the evidence, and in accordance with the facts proved, the master should have found the main line operating expenses for said year ending Dec. 1, '75, to be $1,023,045.42. This finding of the master is in direct conflict with the evidence, and in direct contradiction of the master's finding in answer to the third question of the order of court. This finding is contrary to the evidence of Mr. Kelsey given upon this hearing; it is contrary to the evidence of both Kelsey and Lewis given in the W. Car Co. case, and introduced in this case; it is contrary to the findings and report of the special masters, Andrews and Elliott, introduced in evidence; it is contrary to the evidence of Re-

ceiver Wright given at this hearing, and also to his evidence given in the reference to Master Bishop and introduced in this matter; it is contrary to the report of the receiver made to the court—which report the master, on page 58 of his report, accepts and adopts—and is unsupported by any evidence given in this case. This difference consists in the fact that the master has in his finding
1256 put into operating expenses $381,536.37, charged by the receiver to "extraordinary maintenance of road, motive power and cars," during the first year of the receivership. This same sum the master has included in and found to be part of the improvement and betterment account of the receiver. It is impossible for both findings to be correct. This $381,536.37 cannot be part of operating expenses, if it is, as found by the master, and as abundantly proved by the testimony, a part of the improvement and betterment account. It is noticeable and quite remarkable that the master founds his finding as to operating expenses *for all the other years of the receivership* upon the receiver's reports and the evidence of Mr. Kelsey, the receiver's auditor, except the first year; and for this finding resorts to a statement made by Lewis, which is based solely upon the fact that the receiver made no final distribution of his expenses for the first year, until the close of the year, and then distributed them as given in his first annual report. The evidence of Kelsey and Wright and Pease fully explains this distribution.

20. In this, to wit: That the master finds the operating expenses of the extension during the receivership to be $767,759.70;
1257 whereas, under the evidence, and in accordance with the facts proved, the master should have found said extension operating expenses to be only the sum of $656,672.12. This difference consists in the fact that the master has included in his said finding $111,087.58, charged by main line against extension for rent of locomotives and cars, which the evidence beyond any dispute proves should not have been charged against the extension as an operating expense, or credited to the main line as an earning.

21. In this, to wit: That the master, on page 66 of his report, in substance finds that the evidence does not prove how much the construction and equipment account prior to the receivership remained unpaid on December 1, 1874; whereas the master should have found that the evidence does show clearly said amounts left unpaid, in the following named exhibits, and the evidence touching said exhibits, viz: Exhibits "Lewis 9," "Lewis 22, 23 and 24."

22. In this, to wit: That the master, on page 66, states that said gross expenses include the claim of the "Western Car Company for the use of cars *for the six months prior to December 1st*, 1874," whereas the master should have found—if any finding upon the point was needed, which petitioners deny—the fact to be, as is proved by the evidence, that said gross operating expenses include *the entire claim of the Western Car Company for the use of its cars*, without at-
1258 tempting to limit the finding to the six months prior to December 1, 1874. And in this, to wit: That the master fails to

state and find, that the receiver's operating expenses, as found by the master, do include, as a paid item, the claim of the Western Car Company, for the use of its cars by the receiver, from December 1, 1874, to September 1, 1875, which said claim has not been paid or adjusted.

23. In this, to wit: That the master has not included in the receiver's operating expenses the $160,653.38, the amount of the judgment and rent claim of the Rogers Locomotive and Machine Works against the receiver, and that he has not included in said receiver's operating expenses the taxes paid by the receiver that accrued upon the property during the receivership, by said omissions leaving his finding indefinite, and not in accordance with the order of the court. And in this, to wit: That the master has found the total receiver's operating expenses to be the sum of $5,628,177.14; whereas he should have found, under the evidence, and in accordance with the facts proved, that the total amount of receiver's operating expenses, *including* said judgment and rent claim of the Rogers Locomotive and Machine Works, and *including* all taxes paid by the receiver that accrued against the property while in his possession, and *excluding* the $43,617.00 of extension operating expenses paid by extension bondholders under the stipulation, and *excluding* the $39,132.30 never yet paid to W. Car Co., on rent of cars from December 1, 1874, to September 1, 1875, which has been included by the master in his said finding, is the sum of $5,275,356.56.

1259

24. In this, to wit: That the master, on pages 65 and 69 of his said report, has found that the surplus or net earnings that would have remained after full payment of all operating expenses, including all claims petitioners are now seeking to have paid, amounts to $718,761.51; whereas, under the evidence, and in accordance with the facts proved, the master should have found said surplus earnings to be $1,692,919.27.

25. In this, to wit: That the master in his finding purporting to answer the order of the court requiring the master to find and report "what amount of taxes have been paid by the receiver, for what, and when were such payments made," has not made any clear and definite finding, such as is called for by the order and absolutely proved by the evidence in the record. The master should have made and found the proper distribution of the taxes paid by the receiver, as between the main line and extension, the record containing the evidence by which such distribution can be readily made.

1260

26. In this, to wit: That the master, on page 77 of his said report, finds and reports the net balance of the loan account for the period prior to the receivership at $1,072,050.79, by which finding the master finds in effect that Exhibit "Lewis 4 A" is true and correct; whereas the evidence proves said exhibit to be incorrect, in that it contains at least $130,000 too much, if any part of it is correct. And in this, to wit: That the master in the statement and table given on page 77 of his said report, has entirely omitted from said statement

the aggregate sum of $978,040.38, clearly proved by undisputed testimony to have been paid out by the company between Jan. 1, '73, and Dec. 1, '74, on construction, equipment, and coupon interest accounts. And in this, to wit: That although the master finds that all payments made by the company for construction, equipment, improvements, coupon interest, and for operating expenses, were made out of the general treasury of the company indiscriminately, and that the general treasury was suppled from earnings, sale of bonds
1261 and borrowed money—which finding seemed to require a finding showing the entire receipts from all sources, and the entire disbursements of the company during this period—the master has made no finding at all upon the subject of receipts and disbursements, and has, in the findings he has made, entirely omitted and left unmentioned over a million dollars clearly proved by the evidence to have been paid out by the company between Jan. 1, '73, and Dec. 1, '74, viz., $987,040.38, above named in this exception, and $259,444.21 paid out by the company during this period upon operating expenses accrued *prior* to Jan. 1, '73, as is shown by exhibits "Lewis 38 X," "Lewis 38 B," and "Lewis 38 G."

27. Petitioners except to the lengthy aad argumentative statement by the master in his report, from page 10 to 22, of the evidence of the witness C. Kelsey, regarding "correction entries," for this, that said statement does not give the court a fair and correct view of the substance of said Kelsey's entire evidence upon the subject of said "correction entries." In this, that the master has entirely omitted from his statement of the substance of the witness Kelsey's evidence all that said Kelsey testified to upon his re-examination, in which he greatly qualifies his former evidence, and fully and clearly
1262 explains why said "correction entries were made, and shows, as petitioners claim, that said "correction entries" were and are correct. And petitioners except to the statement by the master upon pages 22 and 23 of his said report, in which he purports to give the substance of the evidence of the witness G. E. Howe, regarding the distribution of accounts, in this, that said statement does not give the court a fair and correct synopsis of the entire evidence of said Howe upon said point, but entirely omits important parts of said witness's testimony, in which he explains and qualifies statements made by him in his direct examination.

Petitioners also except to the statements of the master in his said report, by which the court would be led to infer that the "correction entries," so called, made a change in all the *books and permanent records of the company;* whereas the fact is, as shown by the evidence, that the distribution of accounts as shown by Exhibits "Kelsey 1" and "Lewis 7," is the original and only distribution of accounts ever entered upon the general ledgers and permanent records of the company. The only book entries affected by said correction entries were the entries upon what is called the distribution book, which was changed and corrected at the end of the year, before the final entries

in the ledgers and permanent records of the company were
1263 made.

And petitioners pray the court to consider and sustain each of their said several exceptions to said master's report.

Respectfully submitted.

McDONALD & BUTLER,
Solicitors for W. Car Co. and other Petitioners.
By JOHN M. BUTLER.

INDIANAPOLIS, INDIANA, May 28, 1881.

1264 And afterwards, to wit, at the May term of said court, in recess thereof, on the 16th day of June, 1881, the following further proceedings in the above entitled cause were had, to wit:

Come now the respondents by J. D. Campbell, Esq., Benjamin Harrison, Esq., and C. W. Fairbanks, Esq., their solicitors, and file their exceptions to the master's report filed herein on the 18th day of May, 1881, and said exceptions are in the words following, to wit:

Austin Corbin, Giles E. Taintor, and Josiah B. Blossom, purchasers, and the Farmers' Loan and Trust Company and others, respondents herein, except to the report of the Hon. W. P. Fishback, master, made in response to the reference of date Feb. 13, 1880, and filed in this cause May 18, 1881, in the particulars and upon the grounds following, to wit:

They except to all of said report because the same is based upon incompetent and irrelevant testimony, to the introduction of which these respondents at the time objected.

And (B) to so much of said report as is based upon statements made up from the books and reports of the railroad company and of the receiver, which were accepted as evidence against these respondents over their objection, without any competent evidence of
1265 the correctness of the entries in said books and reports, and in the face of evidence showing (as the master finds) that said books and reports were not truly and correctly kept, but were manipulated and changed so as to show a result unfavorable to these respondents in this inquiry.

And (C) because said report upon the questions submitted does not find what the truth was, but only what is shown by said books and reports.

And (D) because said report is, upon several of the most important points of inquiry, incomplete and does not give the court any sufficient facts upon which to base a finding or order.

2. To so much of the report of the master in response to the first question as finds that any interest was paid after July 1, 1874, on the mortgage bonds of the company, or that any money was deposited after said date to pay interest, because the same is contrary to the evidence and is directly contradicted by the later statements of the master in his report.

3. To so much of the report in answer to said first question as states that the master cannot tell whether the coupon interest paid

between Jan. 1, '73, and July 1, '74, was paid out of the earn-
1266 ings or out of borrowed money or the proceeds of bonds sold, because the evidence shows, and the master should have so found, that none of said interest was paid out of the earnings of the company.

4. To so much of the report in answer to the second question as professes to give the amounts charged to construction and equipment on the books of the company in the two periods, because it is not responsive to the question, and is wholly irrelevant, and because the same is not correctly stated upon the evidence.

5. To so much of the report in answer to the second question as finds that there was paid out for construction and equipment from Jan'y 1, '73, to July 1, '74, $829,113.39, and from July 1, '74, to Dec. 1, '74, $59,951.31, because neither of said findings is supported by the evidence; but, on the other hand, there should have been deducted from the aggregate of these sums the sum of $388,131.56, which was shown by the evidence to have been charged to construction and equipment, when in fact it should have been charged to operating expenses; and because it further appeared from the evidence that other large sums charged to construction and equipment, and included in said aggregate were not in fact properly so charged to operating expenses, and that the method of distribution of
1267 the bonds was arbitrary and false, and because the master himself reports that he is unable to arrive at any satisfactory answer to the first branch of the question.

6. And to so much of said report in response to the second question as states that the master is unable to tell from what source the funds were derived to pay the construction and equipment account, because the master has found on page 35 of his report that he is of the opinion that the money borrowed was for the purchase of new equipments, and on construction account, and to pay coupon interest, and the evidence shows enough funds derived from loans and bonds sold to pay all these accounts.

7. To the entire answer of the master to the third question, because it is not responsive to the question, and does not show or purport to show "the amount expended for permanent improvements, right of way or other real estate, new equipment or for construction, but includes in all of its statements large amounts expended for extraordinary repairs, as they are called, and other large amounts charged by the receiver to maintenance of roads, cars and motive power.

8. To so much of the answer to said third question as includes in the tables given the items for extraordinary repairs, because
1268 repairs are of necessity operating expenses, and not permanent improvements or construction, and their character is not changed by the fact that they are extraordinary, and because the reparation of the injuries caused by floods, a hard winter, or by a previous neglect to make timely repairs is properly an operating expense, and should be so charged.

9. To the aggregate given by the master in said answer of the amount paid for betterments, equipments, &c., by the receiver, because the same is too great and includes much that was ordinary operating expenses.

10. To the answer to the third question, because the master has reported only the amount of money paid out by the receiver for the alleged new equipment, betterments, &c., and has not inquired or found, as he ought to have done, the value of these things at the termination of the receivership and the transfer of the property; much of the life of the equipment, betterments, &c., having been expended during the receivership and returned in the shape of earnings, it is not right to charge the original cost thereof.

11. To the answer to the fourth question, because the master has not taken into account a large amount of contingent and un-
1269 settled claims against the receiver properly chargeable to operating expenses, and which are still unpaid.

12. To the answer of the master to the said fourth question, because the master has not included the taxes paid by the receiver in his operating expenses, nor the taxes assessed upon the property and unpaid at the time of the sale of the road.

13. To so much of said report in answer to the fourth question as states the amounts of the operating expenses during the several periods prior to and during the receivership, because the master has failed to include in said amounts large sums which had been charged to construction and equipment and other accounts, but which were properly operating expenses, and should have been so charged, and because the amounts of the operating expenses as reported by the master are much too small.

14. To so much of said report in answer to the fourth question as gives the amount of the gross earnings for the periods prior to and during the receivership, because the amount given for each of said is much too great.

15. To the answer of the master to the fourth question,
1270 because he has not at all responded to that part of the question which calls upon him to give the amounts expended for "proper equipment and useful improvements," but has limited his answer to necessary operating expenses alone.

16. To so much of the report of the master as finds that the general condition of the railroad equipment and property was improved and the same increased in value during the receivership, because said finding is not sustained by the evidence and is not responsive to any inquiry addressed by the court to the master, and because such general improvement, if the same was proved, would in large measure only represent restoration or repairs.

AUSTIN CORBIN ET AL., *Respondents*,
By J. D. CAMPBELL,
B. HARRISON,
C. W. FAIRBANKS, *Solicitors*.

1271 The following stipulation was filed by the parties herein:

It is stipulated that this affidavit was presented to Judge Drummond on the 23d day of June, 1881, at the final argument of this cause, and was admitted by the parties to be a true statement of the facts therein contained.

McDONALD & BUTLER, *of Counsel for Petitioner.*
C. W. FAIRBANKS, *Sol'r for Respondents.*

STATE OF INDIANA, }
Marion County, } *ss.*

G. L. Dickinson, being duly sworn, on oath says that he is auditor of the Indiana, Bloomington and Western Railway Company.

Affiant further saith that the Austin Corbin et al. purchasing committee and the Indiana, Bloomington and Western Railway Company paid taxes on the main line of the Indianapolis, Bloomington and Western Railway Company that had accrued against Geo. B. Wright, receiver, to the amount of $14,096.33. Affiant has in his custody receipts of all treasurers for their respective proportions of the above amount.

The amounts paid by said purchasers and said company are as follows:

Purchasers Vermillion Co., Ill's	$1,879 74
Purchasers Champaign Co., Ill's	3,445 81
1272 Purchasers Pratt Co., "	522 43
Purchasers Dewitt Co., "	572 91
Purchasers McLean Co., "	3,342 68
Purchasers Indianapolis City	257 17
Company, do City	321 72
Company, Indiana counties	3,673 01
	$14,015 47

And further affiant saith not.

G. L. DICKINSON.

Subscribed and sworn to before me this 22d day of June, 1881.
[SEAL.] HENRY C. WILSON, *Notary Public.*

Detailed statement of taxes paid by Main Line Purchasing Committee and by the Indiana, Bloomington & Western Ry. Co.:

When paid.	Taxes, where levied.	When levied.	Amount.
1879.			
May 28,	De Witt Co., Ills., Santa Anna Tp.,	For 1878	$572 91
" 27,	Vermillion Co., Ills.,	"	1,876 74
" 27,	Pratt Co., Ills., Blue Ridge, Tp.,	"	518 43
" 30,	Pratt Co., Ills.,	Adv'tsg Taxes	4 00
" 28,	Vermillion Co., Ills.,	"	3 00
" 2,	City of Bloomington, Ills.,	Spl. Tax Water Main	80 86
June 17,	Champaign Co. Main Line,	For 1878	3,437 71
" 19,	McLean Co. "	"	3,342 68
" 30,	Serving injunction, pd. cashier,		8 10
	Total in Illinois		$9,844 43

When paid.	Taxes, where levied.	When levied.	Amount.
1879.			
Aug. 2,	Indianapolis City, per D. H. Oliver,	For 1874 and 1875.....	$257 17
" 30,	do per Company,	For 1876-7 and 8.....	321 72
Oct. 28,	Fountain Co. 2d installment,	For 1878	958 77
" 28,	Boon Co. do	"	160 58
" 28,	Marion Co. do	"	466 30
" 27,	Hendricks Co. do	"	715 24
" 29,	Montgomery Co. do	"	1,037 36
" 29,	Warren Co. do	"	214 38
" 31,	Vermillion Co. do	"	119 78
1273	Total in Indiana.....		$4,251 90
	Total of above taxes.....		$14,096 33
	Ills. taxes prior to Apl. 11, 1879.....		9,793 18
	do after do		51 25

1274 And afterwards, to wit, at the May term of said court, on the 24th day of June, 1881, before the Honorable Thomas Drummond, judge of said court, the following further proceedings in the above entitled cause were had, to wit:

The court having considered the petition of the Indianapolis and St. Louis Railroad Company, filed May 17, 1881, finds that the allegations of said petition are true; that there is due to said Indianapolis and St. Louis Railroad Company the sum of five thousand five hundred and ninety-one dollars and three cents ($5,591.03) for use of track and bridge, which was reported by the receiver to the Circuit Courts of Montgomery county, Indiana, and DeWitt county, Illinois, in November, 1875, and that he was ordered to settle the same.

And it appearing from the report of said receiver that the same can be compromised and settled by the payment of sixty per cent. (60) of the face thereof, to wit, three thousand three hundred and fifty-four dollars and sixty-one cents ($3,354.61), he is instructed by the court and directed, no one of the parties in interest objecting thereto, to settle said claim and pay said sum of three thousand three hundred and fifty-four dollars and sixty-one cents ($3,354.61), in full settlement thereof, out of the moneys remaining in his hands.

1275 And afterwards, to wit, at the May term of said court, on the 16th day of July, 1881, before the Honorable Walter Q. Gresham, one of the judges as aforesaid, the following further proceedings in the above entitled cause were had, to wit:

Comes now Austin Corbin *et al.*, by Harrison, Hines & Miller and C. W. Fairbanks, their solicitors, and file their motion to refer the report of William P. Fishback, master, back to him, in the words following, to wit:

In the matter of the intervening petition of the Western Car Co. *et al.*

Austin Corbin, Josiah B. Blossom, & Giles E. Taintor, purchasers, and others, respondents, now come and move the court to refer back to the master, William P. Fishback, his report, filed herein July 18, 1881, with instructions to report:

1. What amount was expended by said company on the main line and the extension from Jan'y 1, 1873, to July 1, 1874, and from July 1, 1874, to December 1, 1874, for permanent improvements, betterments, right of way or other real estate, new equipment, and for construction. And in reporting said amount said master shall be required to exclude such expenditures as are not shown clearly and affirmatively to have been disbursed for the above accounts.

1276 Such expenditures as were in their nature for repairs, or for equipments, title to which never vested in said railway company, said master should report in operating expense account. Said master should disregard the face of the distribution to construction and equipment on the auditor's books, unless they are shown to be correct and proper by affirmative evidence. All arbitrary distributions of pay-rolls, extra gang-rolls, roadway, or railroad and bridge material accounts to construction and equipment by the auditor, in the face of distributions by heads of departments, in which the particular work and materials were expended, to operating expenses, should be distributed to other and proper accounts by the master, unless it is shown by competent evidence that the distribution by the auditor is just and right. And the master should further report what portion of the disbursement on extra gang-rolls and section-rolls for the above periods were improperly charged to construction and equipment by the department in which said accounts arose, and what portion or amount thereof should be added to operating expenses.

2. What was the amount expended by the receiver from

1277 December 1, 1874, to April 11, 1879, on the main line or on the extension, in permanent improvements, right of way or other real estate, new equipments, or for construction, excluding all disbursements for mere repairs, and also the value of such improvements, equipments, or construction on the 11th day of April, 1879.

3. What amount has been expended for operating expenses accruing before and paid after April 11, 1879, by the receiver, and also by the master in chancery under orders of this court.

4. What amount was paid by the purchasers or their successors of the taxes accrued during the receivership, and due and unpaid upon said property (the main line and extension) when surrendered to the purchasers by the receiver, and what amount thereof is properly chargeable to the receiver's operating expenses prior to April 11, 1879.

5. What is the amount of the pending and contingent liabilities of the receiver growing out of the management and operation of said main line and extension.

And such other and further facts upon the several questions heretofore submitted by the court as are necessary to a correct and just conclusion of the matters herein involved, upon which said master's report is incomplete.

AUSTIN CORBIN ET AL.,
Purchasers, &c., Respondents.

By B. HARRISON & C. W. FAIRBANKS, *Solicitors.*
J. D. CAMPBELL, *of Counsel.*

1278 And afterwards, to wit, at the May term of said court, on the 19th day of July, 1881, before the Honorable Walter Q. Gresham, one of the judges as aforesaid, the following further proceedings in the above entitled cause were had, to wit:

Come now Austin Corbin et al., by B. Harrison and C. W. Fairbanks, their solicitors, and file their objections to the filing, consideration and reference of sundry petitions for labor and supplies, in the words following, to wit:

In the matter of six months' claims, etc., Austin Corbin et. al., purchasers, respondents herein, object to the filing, consideration and reference of sundry petitions for labor and supplies filed herein since the sale of the above railway property, viz., since October 31, 1878.

The order referring this class of claims was entered herein June 4, 1877, and among other things provided, "that each petition or claim so presented to the receiver or to the court shall state the exact date, the indebtedness accrued, what the indebted accrued for, where the indebtedness accrued, and what amount thereof remains upaid, and the claimant or petitioner shall make affidavit to the correctness of his said petition."

1279 Subsequently the court ordered all claims presented to the master by Sept. 15, 1877. If not presented by that date they were to be forever barred, except for some good cause shown. This order was afterwards extended to October 1st, 1877.

Subsequently the decree of sale was entered, and afterwards, to wit, July 8, 1878, an amendment was entered to the original decree in which it was decreed "* * * that said sale should be made subject to certain claims, and also subject to that portion of such other claims and sums of money *as are now under consideration by*, and as shall be hereafter allowed by this court, or the Circuit Court of the United States for the district of Indiana, in the causes therein pending, &c."

It is distinctly provided by this decree that the sale should be made subject to such claims as are *now* under consideration by the court, &c., and we submit that the claims now presented were not embraced within those described in the decree. They were not filed and verified as the order of reference required. In short, they were not pending. The decree expressly provided that the sale should be made subject to such claims as were pending and under con-

1280 sideration by the court when the decree was entered. Purchasers, by an inspection of the record, could readily ascertain the extent of liabilities to which the sale was to be made subject. The petitions now presented to *to* the court were not pending at the date of decree, and the sale was not made subject to them.

There are several petitions now presented.

1. Pullman Palace Car Co.

This petition simply shows it was the duty of John Reimer, general accountant, to present or look after claims of this character. He died August ——, 1878, nearly one year after reference closed.

The receiver made a settlement with the car company in 1875. Then the car company reserved the right to collect the claim prior to Dec 1, 1874, from the railway company. But there was no attempt or pretense that an effort was made to comply with any orders of reference herein. The claim was not a pending one.

2. E. S. Alexander.

This petition was verified in Feb'y ——, 1879. Petitioner says he didn't know of order until it had expired.

3. Robert Connely.

Petition verified Nov. 8, 1878; says he was in Colorado
1281 when reference was made; went to Colorado in 1876. Before going, left claim with Gen'l Wright, receiver, &c. This was not a filing of claim under the order of June 4, 1877, and it was not a "pending claim" at date of decree.

4. G. W. Flynn & Co.

Date of verification of petition, July 2, 1881. No reason whatever assigned why claim was not presented before. It appears that it was for supplies furnished before the 4 months.

5. William McCafferty.

This seems to have been filed Aug. 27, 1877, but "did not pass because certificates are not attached." Seems to have been (from indorsements on petition) rejected.

6. Michael Gimbel, German.

Didn't read English papers, and did not hear of order of reference in time.

7. Claypool & Ketcham.

Petition states no sufficient reason why it should not be referred or that it is entitled to any reference.

8. Tim. Shay.

Didn't hear of order in time to make petition before Oct. 2, 1877.

9. James Shay.

Didn't know of order of reference until it had closed.

1282 10. Henry C. Donnell.

Don't seem to be owner of claim. There is no assignment. Petitioner don't know who did the work or when it was done. Affidavit 30 Oct., 1877.

10. Michael Grady.

Affidavit April 2, 1881; says claim left with Claypool & Ketcham, and for some reason not reported on. This is fault of petitioner.

11. John W. Todd.

Seems to be a copy of a petition claimed to have been filed. Counsel should have presented the matter when master's report was excepted to and exceptions were argued.

All the above petitions have been filed since the decree of sale, and were not pending and under consideration by the court at date of decree for sale, within the meaning of the decree, and we submit they should not be allowed to be filed.

July 18, 1881. AUSTIN CORBIN, ET AL. *Respondents*,
By B. HARRISON,
C. W. FAIRBANKS.

J. D. CAMPBELL, *of Counsel.*

1283 And afterwards, to wit, at the May term of said court, in recess thereof, on the 12th day of September, 1881, the following further proceedings in the above entitled cause were had, to wit:

Comes now William P. Fishback, Esq., master in chancery, and files his report herein, showing the condition of the fund of said railway company on the 1st day of June, 1881, in the following words, to wit:

To the Honorable Court:

The undersigned, the master having custody and charged with the disbursement of the fund herein, reports as follows:

The annexed statement shows the condition of the fund June 1, 1881, and the balance on hand in the Indianapolis National Bank to the credit of that fund on that day.

The accounts and vouchers have been examined by Mr. C. W. Fairbanks, counsel for the bondholders, and he has approved the same.

The receipts, checks, and vouchers appear on the "Old Registry" U. S. Circuit Court, and are in the vault in the clerk's office.

Respectfully submitted.

W. P. FISHBACK,
Master.

Dr. W. P. Fishback, Master in Chancery in Matter I. B. & W. R. R.,
In Account with The Indianapolis National Bank. Cr.

1879.				1879.			
April 9.	To Check		$47 50	Mch. 4.	By Deposit	$45,380 95	
25.	" "	$62 50		April 9.	" "	225,000 00	
25.	" "	755 67		14.	" "	62 50	$270,443 45
			818 17				
28.	" "		50,000 00				
May 13.	" "		60,318 54				
27.	" "		11,553 62				
June 3.	" "		128,259 62				
July 15.	" "		12 25				
15.	To Balance		19,433 75				
			270,443 45				270,443 45
1879.				1879.			
Sept. 8.	To Check		10,454 24	July 15.	By Balance		19,433 75
Oct. 3.	" "		200 00				
Nov. 24.	" "		211 10				
Dec. 23.	" "		25 00				
1880.							
Jan. 3.	" "		20 25				
5.	" "		728 75				
5.	To Balance		7,794 41				
			19,433 75				19,433 75
1880.				1880.			
Mch. 20.	To Check		175 00	Jan. 5.	By Balance		7,794 41
29.	" "		145 10	21.	By Deposit		728 75
June 10.	" "		20 00				
July 20.	" "		3,000 00				
Aug. 5.	" "		325 00				
1881.							
May 16.	" "		50 00				
June 1.	To Balance		4,808 06				
			8,523 16				8,523 16
				1881.			
				June 1.	By Balance		4,808 06

I have examined the above account as well as the account
1285 appearing on the registry of the court from the date of the sale to the date of the close of the above account, which account embraces receipts and disbursements of the master, and find the same correct.

C. W. FAIRBANKS,
JUNE 28, 1881. *Sol. for Bondholders*

And afterwards, to wit, at the May term of said court, on
1286 the 18th day of October, 1881, before the Honorable Thomas Drummond and Honorable Walter Q. Gresham, judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now Thomas M. Rinn by Messrs. Nebeker and Cambren, his solicitors, and files his petition herein in the words following, to wit:

Your petitioner, Thomas M. Rinn, of Covington, Indiana, respectfully represents unto this honorable court that the Indianapolis, Bloomington and Western Railway Company is justly indebted to your petitioner for materials furnished by your petitioner to said company and by them used in the construction and repair of their railway, and for work and labor performed on said railway by sundry employes of said company during the months of June, July, August, September, October, and November, 1874, and that said material was furnished and said labor was done between the first day of June, 1874, and the date of the appointment of a receiver in this cause. That there is now due your petitioner for said materials and labor the sum of three thousand and seventeen and 87-100 dollars, principal and interest, after allowing all just credits, deductions, and set-offs; that the same remains due and unpaid, and the same ac-
1287 crued in Fountain county and State of Indiana; that said indebtedness for said labor is evidenced by ten certificates of indebtedness issued Nov. 30, 1874, by said company, which are filed herewith, as follows: No. 57 for $175; No. 221 for $216.40; No. 222 for $558.47; No. 223 for $396.30; No. 224 for $415.55; No. 225 for $229; No. 236 for $184.70; No. 411 for $131.37; No. 521 for $22.75; No. 614 for $15, and No. 903 for $275.75. Total amount $2,620.29. Upon all of said certificates except Nos. 57 and 903 a payment of ten per cent. was made February 7, 1876, amount $216.95, leaving a balance due of $2,403.34 and interest. That said indebtedness for said materials furnished by the petitioner is evidenced by a receipt of said company to the petitioner, which is also filed herewith, for ties and culls to the amount of $298.50. The total amount of said indebtedness after deducting said payment of $216.95 is $2,701.84, which with interest to September 15, 1877, amounts to said sum of $3,017.87.

And your petitioner prays that the amount now due him may be ordered to be paid under the direction of the court by the receiver now in charge of said railway, from the proceeds of the sale thereof.

T. M. RINN.

1288 STATE OF INDIANA,
Fountain County.

I, Thomas M. Rinn, do depose and say that the above petition is true in substance and in fact, and that there is now due your petitioner the sum of three thousand and seventeen and $\frac{87}{100}$ dollars, and that the same remains due and unpaid.

T. M. RINN.

Subscribed and sworn to before me this 6th day of Sept., 1877.
[SEAL.] S. M. CAMBREN,
Notary Public.

[Folio 1289 erased in original copy.]

1290 And at the same time comes Edward Hays, by Mess. Claypool & Ketcham, his solicitors, and files his petition herein in the words following, to wit:
(Petition is not among files.)

1291 And afterwards, to wit, at the May term of said court, on the 31st day of October, 1881, before the Honorable Thomas Drummond and the Honorable Walter Q. Gresham, judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Come now the several intervening petitioners, to wit, the claimants herein, by their respective counsel; and now come also the respondents, to wit, the Farmers' Loan and Trust Company, and Austin Corbin, Giles E. Taintor and Joseph B. Blossom, by their counsel; and now come also Sumner R. Stone, Frederick D. Tappan, John Welsh, Jr., H. K. Thurber and Philo C. Calhoun, by their counsel, and upon consideration of the several exceptions filed to the several reports of Special Masters John D. Howland and Livingston Howland, upon the reference of June 4, 1877, and also of the several exceptions to the report of Master William P. Fishback upon the reference of February 18, 1880, the court being sufficiently advised, overrules said several exceptions, and each and every of them, so far as the same are in conflict with the facts hereinafter found and determined by the court, or with this decree. And the court, upon said reports and the evidence returned therewith, finds that within the period named in said order of February 18, 1880, the earnings of said Indianapolis, Bloomington and Western Railway that ought to have been applied to the payment of the several claims hereinafter referred to were diverted to the payment of interest upon the bonded indebtedness of said railway company, additional equipment purchased for, and lasting and valuable improvements made upon said railway to the amount of five hundred and eighty-seven thousand dollars.

The court further finds that said several intervening petitioners and claimants did, within the period of six months next preceding the first day of December, 1874, respectively furnish to said Indianapolis, Bloomington and Western Railway Company supplies and

materials which were used by said company in the operation of its said railway, and did respectively perform labor for said company in the operation of its said railway to the respective amounts hereinafter in this decree severally set forth, and that said several sums so hereinafter set forth now remain due and wholly unpaid.

And the court further finds that by reason of the fact that
1292 by the various decrees heretofore entered, the several amounts so to be paid are to be paid by said Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasing committee, as the remainder of the purchase-money for the main line of said railway, or as money which the said purchasers are obliged to pay under the decree and various orders of the court rendered and entered heretofore in this cause; and by Sumner R. Stone, Frederick D. Tappen, John Welsh, Jr., H. K. Thurber, and Philo C. Calhoun, purchasing committee, as the remainder of the purchase-money for the extension of said railway, or as money which the said purchasers are required to pay under the decree and various orders of the court rendered and entered in this cause, and by reason of the fact that the possession of said railway was surrendered to said purchasers respectively on the 12th day of April, 1879, interest upon said several claims, save and excepting alone the claims of said McDonald & Butler, Weldon & Aldrich, Robert G. Ingersoll, and Charles W. Fairbanks, should be paid by said purchasers at the rate of three per cent. per annum from said 12th day of April, 1879, until the date hereof.

And the matter of the intervening petition of the Western Car Company filed in this cause in the Circuit Court of the United States for the Southern District of Illinois on the —— day of March, 1877, and the answer of said Western Car Company filed in this cause in the Circuit Court of the United States for the District of Indiana, on the —— day of March, 1877, and the issues joined upon said intervening petition, and upon said answer, coming on to be heard for final hearing and decree, upon the pleadings and evidence introduced, and upon the report of Masters Howland and Howland, under the order of reference of June 4, 1877, and the evidence returned into court therewith, and upon the report of Master Fishback, under the order of reference of February 18, 1880, and the evidence returned into court therewith, and upon the several exceptions to said reports of said Masters Howland and Howland, and to said report of said Master Fishback, and the court being fully advised, overrules all exceptions to the report of Master Fishback in conflict with the findings of the court heretofore set forth in this decree. And the court overrules all exceptions to the said report of Masters Howland and Howland, and in all things confirms said report, save and except that the court orders and decrees that a deduction of $5,397.35 be made from the amount of $105,480.00, as found by said Masters Howland and Howland, on account of payments made by the said Indianapolis, Bloomington and Western Railway Company to the said Western Car Company, between June 1, 1874, and December 1, 1874, on account of car rental, to which order and decree deducting said sum

of $5,397.35 the Western Car Company by its counsel here now excepts.

And the court finds that there is justly due to said Western Car Company for the use of its said cars, used by said Indianapolis, Bloomington and Western Railway Company in the operation of its railway, from June 1, 1874, to December 1, 1874, the sum of $100,082.65, together with interest thereon at the rate of three per cent. per annum, from April 12, 1879, up to the date of this decree, which said sum the court does elsewhere in this decree order and decree to be paid by the purchasers of the main line and extension of said Indianapolis, Bloomington and Western Railway.

And the court finds from the evidence introduced herein that, in addition to the said sum of $100,082.65 hereinabove men-
1293 tioned, there is a large sum of money due to said Western Car Company from said Indianapolis, Bloomington and Western Railway Company for the use of the cars of said Western Car Company, by said Indianapolis, Bloomington and Western Railway Company, in the operation of its said railway prior to June 1, 1874. And the court declines to allow and refuses to decree the payment by the purchasers of said main line and extension of said Indianapolis, Bloomington and Western Railway of any rental due and accrued to the said Western Car Company, from the said Indianapolis, Bloomington and Western Railway Company, for the use of the cars of said Western Car Company by said Indianapolis, Bloomington and Western Railway Company prior to June 1, 1874; to which refusal of the court the Western Car Company by counsel here now excepts, and the said Western Car Company by counsel now prays an appeal from so much of this decree as decrees the deduction of $5,397.35 from the amount found and allowed by the report of Masters Howland and Howland; and also from so much of and from every such part of this decree as rejects and refuses to decree payment of the amount due and owing to the Western Car Company, for the use of its cars by the Indianapolis, Bloomington Western Railway Company in the operation of its said railway prior to June 1, 1874, which said appeal is granted by the court.

And the matter of the intervening petition of the Paris and Danville Railroad Company, by James A. Eads, its receiver, filed herein, coming on for final hearing and decree upon the issues joined upon said petition, the evidence introduced, the report of the Masters Howland and Howland, and the evidence returned therewith into court, and the report of Master Fishback and the evidence returned into court therewith, and the court being fully advised, overrules all exceptions to the report of Master Fishback in conflict with the findings of the court heretofore in this decree set forth. And the court upon consideration of the exceptions to the report of Masters Howland and Howland finds as follows:

First. That there is justly due to the owner or owners of the claim set forth in the said intervening petition for lands taken, appropriated and used for right of way of the main line of the Indian-

apolis, Bloomington and Western Railway Company as described in said petition, and in said masters' report, the sum of $12,200.

Second. That the said Indianapolis, Bloomington and Western Railway Company prior to the foreclosure and sale of said railway and property under decree rendered in this cause, obtained the legal title to a certain seven-acre tract of land in said petition described for the purpose of depot grounds, which said tract of land has not been paid for by said railway company, and has never been used for the benefit of said railway. The court therefore finds that in equity the purchasers of the main line of said Indianapolis, Bloomington and Western Railway Company, and their grantees and assigns, ought to convey by good and sufficient deed said seven-acre tract of land to the owner or owners of the claim set forth in the intervening petition filed by said receiver, James A. Eads.

Third. The court further finds that there is justly due to the owner or owners of said claim set forth in said intervening petition filed by said receiver, James A. Eads, the sum of $16,464.90 for coal used and consumed by said Indianapolis, Bloomington and Western Railway Company in the operation of its railway from June 1, 1874, to December 1, 1874, and that under the stipulation between the pur-
1294 chasers of the main line and the purchasers of the extension of said Indianapolis, Bloomington and Western Railway elsewhere in this decree appearing, the purchasers of the main line of said railway ought to pay of said sum of $16,464.90 the sum of $14,406.79, and the purchasers of the extension of said railway ought to pay of said sum of $16,464.90 the sum of $2,058.11, and the court overrules all exceptions to the report of said masters, Howland and Howland, in conflict with the three findings last above set forth.

And the court further finds that there is now pending in this court a controversy involving the ownership of the claim mentioned, and set forth in the said intervening petition filed by said receiver, Eads, so that the court cannot now determine to whom the moneys found due upon said claims should be paid. It is therefore ordered and decreed by the court that the purchasers of the main line of said Indianapolis, Bloomington and Western Railway, whose names are elsewhere in this decree set forth, do, within sixty days, excluding Sundays, from the date of this decree, pay into the registry of the Circuit Court of the United States for the District of Indiana, for the use and benefit of the owner or owners of said claim set forth in the petition filed by said receiver, Eads, the sum of $12,200 in full payment for the lands used for right of way for said main line of said railway, as in said petition and master's report described, exclusive of the said seven-are tract hereinabove mentioned.

And the court further orders and decrees that the purchasers of the main line of said Indianapolis, Bloomington and Western Railway, whose names are elsewhere in this decree set forth, do, within sixty days, excluding Sundays, from the date of this decree, pay into the registry of the Circuit Court of the United States for the District of Indiana, for the use and benefit of the owner or owners of the

claim set forth in the intervening petition filed herein by Receiver James A. Eads, the sum of $14,406.79, together with three per cent. interest per annum thereon from April 12, 1879, to the date hereof.

And the court further orders and decrees that the purchasers of the extension of said Indianapolis, Bloomington and Western Railway, whose names are elsewhere in this decree set forth, do, within sixty days, excluding Sundays, from the date of this decree, pay into the registry of the United States Circuit Court for the District of Indiana, for the use and benefit of the owner or owners of the claim set forth in the intervening petition filed herein by Receiver James A. Eads, the sum of $2,058.11, together with three per cent. interest per annum thereon, from April 12, 1879, to the date hereof. And in respect to all of that part of the claim set forth in said intervening petition filed herein by said Receiver Eads, that accrued and is due and owing for coal delivered to and used and consumed by the said Indianapolis, Bloomington and Western Railway Company in the operation of its said railway prior to June 1, 1874, the court rejects the same and refuses to allow and decree payment thereof, to which rejection and refusal the owners of said claim, by their counsel, here now except and pray an appeal from so much of and from every such part of this decree as rejects all of that part of their claim for money due for coal delivered to and used by said Indianapolis, Bloomington and Western Railway Company in the operation of its railway prior to June 1, 1874, which appeal is now granted by the court; and the court here now grants leave to the owner or owners of said claim for payment for said seven-acre tract
1295 hereinbefore mentioned, upon the final determination of the said controversy involving the ownership of the said claims set forth in the said intervening petition filed herein by Receiver Eads, to move for a supplemental decree ordering and decreeing a conveyance of said seven-acre tract of land, in accordance with the finding of the court elsewhere in this decree set forth.

In the matter of the intervening petition of the Indianapolis Rolling Mill Company, the said rolling mill company excepts to the action of the court in overruling its exceptions to the report of John D. Howland and Livingston Howland, masters, and in allowing said petitioner only $12,924.15, and in not allowing the further sum of $35,751.72, and from the decree of the court in so far as it overruled said exceptions, and does not find and decree the payment of said further sum of $35,751.72; and said petitioner prays an appeal, which is granted; and said rolling mill company now files a bill of exception or certificate signed by the judge of this court, showing the evidence had touching the claim of said rolling mill company, which certificate is made a part of the record herein.

In the matter of the intervening petition of Edward H. Mayo, said Mayo excepts to the action of the court in overruling his exceptions to the report of John D. Howland and Livingston Howland, masters, and said petitioner prays an appeal from the decree of the court, in

so far as it does not decree the payment of the further sum of $6,543 to said petitioner, and in allowing only the sum of $7,057.71, making the total sum of $13,600, which appeal is granted.

In the matter of the intervening petition of Frederick A. W. Davis, said Davis excepts to the action of the court in overruling his exceptions to the report of John D. Howland and Livingston Howland, masters, and said Davis prays an appeal from the decree of the court in so far as the same does not decree the payment to him of the full amount claimed by him in his petition and in his exceptions to the report of said masters, which appeal is granted.

And the matter of the intervening petition of Matthew D. Watson, filed herein on March 19, 1878, coming on for hearing and consideration, and said petition upon its face showing that all of the indebtedness of the said Indianapolis, Bloomington and Western Railway Company, mentioned and set forth in said petition, accrued prior to June 1, 1874, the court, for that reason only, now dismisses and rejects said petition, to which order and decree dismissing said petition the said petitioner, by counsel, now here excepts, and prays an appeal to the Supreme Court of the United States, from so much of this decree as decrees the dismissal of said petition, which appeal is here now granted by the court.

The court does, therefore, upon the facts so found, and the stipulation hereinafter appearing, order, adjudge, and decree that said Austin Corbin, Giles E. Taintor and Josiah B. Blossom do, within sixty days, excluding Sundays, from and after the date of this decree, pay to said several intervening petitioners and claimants the several amounts set opposite their respective names, that is to say, to—

	Charles F. Webb	$270 00
	B. F. Dennison	174 15
	Samuel Rouch	175 20
	Maxwell Plumly	180 00
	John Morain	66 35
	Michael O'Brien	33 75
	John Watson	46 90
1296	John Lyons	143 45
	Edward Kernan	84 95
	W. L. Sugett	270 00
	Pat. Nevin	17 45
	Thomas Maloney	270 00
	Pat. Flagherty	16 20
	L. F. Alby	143 60
	Paul Finnan	19 15
	George Abbott	46 50
	Charles Neher	211 50
	J. A. Davis	319 50
	Pat. Stack	123 25
	Tim. Donahue	128 80
	Daniel Spellman	5 40
	Ned Butler	87 75

L. F. Alby	108 10
John Doyle	28 10
W. A. Atkins	238 50
Michael Finnan	184 70
Pat. Conroy	82 70
Michael Curly	11 40
J. M. Stearns	15 95
Luke Nevin	95 00
Thomas Starr	65 58
David Stevenson	90 50
Michael Colton	364 25
E. L. Pettibone	144 45
Pat. Hines	288 65
N. J. Humphrey and N. G. Humphrey, partners, as N. J. Humphrey & Son	207 60
Michael Gee	14 60
——— Brindley and M. S. Stout, partners, as Brindley & Stout	227 35
J. Keenan	12 15
John Michael	200 00
Charles Irons	59 45
John Mickens	22 53
McLean County Coal Company	586 44
Daniel Donahue	52 50
James Naughton	150 75
M. Keiger	109 07
Martin Shockey	262 10
John Brake	227 00
John Mullen	132 45
E. Lendormie	147 50
Lathrop Kazar	112 50
Michael Nolan	161 83
D. C. Cormack	38 90
Alonzo Kazar	54 00
R. G. Weed	211 10
A. H. Wood	42 50
Hugh Martin	190 62
Duncan McLennan	264 60
Philip McLennan	175 39
Thomas Manion	121 50
Alexander McLennan	51 93
Peter O'Neal	87 58
C. T. Richey	113 33
Albert Porter	245 35
John Quirk	123 00
David Schooley	187 45
Alexander Thompson	453 55
J. B. Trenary	64 91

1297	Aug. Ahlrich	$255 15
	Michael Bongart	146 06
	John Connerty	192 50
	Edward Clancy	142 40
	Fred. Clayton	115 15
	E. K. Clayton	327 38
	James Connerty	210 96
	William Corrier	238 50
	James Cady	129 45
	Dennis Donnaher	90 20
	Frederick Davis	141 58
	A. Graham	90 17
	Howard Golder	359 85
	Thomas B. Hinckle	165 77
	Pat. Fitzgerald	15 40
	Herman Gerbing	110 22
	G. P. Guston	168 96
	Barney Lynch	197 23
	G. Casper Little	288 93
	James McGrath	160 52
	William Kerfoot	202 13
	C. F. Koesel	320 82
	Herman Damon	79 36
	E. Heiserodt	369 51
	John McDermott	232 75
	David H. Price	143 15
	R. D. Perry	91 09
	C. T. Richey	64 52
	Con Ryan	206 81
	Edwin Sykes	234 78
	Stephen Smith	232 93
	David Sidell	93 95
	George B. Johnson	96 48
	George Thompson	282 23
	John Washer	133 69
	E. M. Jordan	103 51
	Jo. Walter	168 48
	Henry Weinke	105 53
	Fred. Weinke	228 11
	R. B. Trenary	51 20
	Lewis Templin	230 08
	John Tong	49 92
	James Thorpe	187 73
	Z. F. Sharpe	339 05
	John Shannon	297 32
	S. S. Small	239 90
	Henry Riley	126 53
	M. F. Meagher	235 73
	James Matherson	220 24

	Chris. Mallendorf	$136 85
	John Medrow	197 01
	John B. Burns	242 77
	Melville Birney	39 29
	Fred. Washer	126 10
	W. A. Billings	35 44
	Mat. Cole	9 90
	N. Cunningham	54 95
	James Duncan	27 91
	Charles Dunlap	27 65
	James Cowley	175 04
	John S. Creek	57 27
1298	Pat. Bartley	413 07
	John Bellchambers	206 15
	W. C. Brant	259 09
	Charles Bellfield	154 44
	S. C. Briggs	182 74
	M. Bebus	85 14
	S. M. Harvey	98 57
	M. K. Frazee	44 41
	Ed. F. Gordon	222 08
	Thomas V. Losey	567 66
	John Weinke	190 36
	H. M. Call	39 38
	Thomas Redding	335 01
	J. P. Blue	18 81
	John R. Timpson	87 11
	Patrick Fitzgerald	77 61
	John Reynolds	24 44
	Edward Henry	156 13
	Z. E. Gill	37 54
	J. T. Rittenhouse	61 03
	Jesse Burt	14 66
	A. H. Wood	918 00
	Thomas W. McHugh	4 73
	Abe Epstein	181 35
	E. Halberstadt	39 38
	Pat. Fitzgerald	53 92
	John Cain	895 61
	James Braddock	10 00
	Charles G. Yohn	180 25
	B. Hutchinson	292 80
	C. O. Pease	286 64
	W. E. Rowe	300 05
	Daniel Higgins	76 50
	S. K. Davis	52 90
	John B. O'Dell	52 75
	P. Jacoby	81 95
	Caleb D. Bellville	170 55

	Daniel Doyle	$156 40
	—— Johnson and —— Stout, partners, as Johnson & Stout	116 57
	John S. Duncan	39 38
	Neal Dugan	7 45
	John Leo	211 03
	Christian Waterman	5,302 17
	Vincent Miller	40 50
	John W. Loder	318 65
	Mike Griffin	335 35
	Henry Severin, Frederick Ostermeyer and Berg Applegate, partners, as Severin, Ostermeyer & Co	144 00
	David Frey	123 57
	David E. Stout	748 09
	E. M. Wheeler	140 45
	George Freedman	107 15
	P. O. Keefe	20 19
	Dennis Monk	117 20
	Elizabeth Heigle	427 31
	John A. Worley	15 75
	Tobias Hill	23 65
	A. Popkess and —— Popkess, partners, as A. Popkess & Bro	34 65
	John Peeble	5 50
1299	Samuel Tarflinger	1 00
	G. K. Thompson	3 60
	Peter C. McMahon	379 32
	Christina Port	139 60
	James M. Duncan and James G. Hardy.	164 65
	George R. McComas	163 00
	J. M. W. Jones	393 39
	F. T. Walker and L. W. Walker, partners as Walker Bros	70 88
	Lewis L. Fellows	135 00
	D. Hession	168 90
	John Toohel	52 10
	Samuel A. Johnston and Wm. J. Johnston, partners as Johnston Brothers.	363 14
	S. Russell, administrator of estate of L. M. Russell	339 50
	John Read	306 55
	Joseph E. Ludlum	225 00
	Leopold Loeb and Julius Loeb	267 54
	Michael Mayer	136 20
	John McManomy (assigned to A. Gish)	306 50
	Joseph Catherwood	52 85
	Jacob S. Hildebrand and James L. Fu-	

	gate, partners as Hildebrand & Fugate	$437 50
	George W. Snyder	262 55
	William M. Davis	91 53
	J. S. Williams	104 74
	M. W. Reams	322 65
	N. L. Woodruff and —— Ditweiler, partners as Woodruff & Ditweiler	115 60
	M. M. Buck	665 49
	W. Maltby	68 25
	James W. Hess and Samuel C. Hanna, partners as Hess & Hanna	95 29
	D. V. Cunningham	634 59
	Wm. A. Perry	266 80
	M. Ready	225 00
	H. Conkling	210 21
	W. W. Straight	320 20
	Frederick Weyerhauser and Frederick C. A. Denkman, partners as Weyerhauser & Denkman	306 95
	Lincoln Coal Mining Company	1,260 76
	Livingston T. Dickson and Charles L. English, partners as Dickson & English	162 58
	James S. Hibben, Robert F. Kennedy, Coleman B. Pattison and Franklin Landers, partners as Hibben, Kennedy & Co	1,310 95
	A. Snedeker	6,206 05
	Frederick A. W. Davis, William H. Morrison, Samuel Miller, John L. Ketcham, Jane M. Ketcham, William Needham, Peter Ditmars and Peter J. Banta, partners as Indiana Banking Company	16,962 09
	Edward H. Mayo, assigned to Second National Bank, Lafayette	6,175 50
	David Berkley	54 00
	M. E. Frazee	40 08
	James Fisher	69 75
1300	—— Cassell and —— Furnas, partners as Cassell & Furnas	22 40
	Thomas Cassidy	95 15
	William T. Smith	315 00
	Seth R. Evans	226 09
	David Case	139 43
	J. W. Hanes	90 00
	Peter Sullivan	219 60
	Alexander M. Robertson and John C.	

Perry, partners as Robertson & Perry	$161 75
Charles J. Schmidt	394 73
Robert Popkess	580 39
Wilkinson Crane	57 20
H. A. Mulholland	71 80
W. S. Barkley	236 25
Matthew Fawcett	419 46
Jacob Bush	70 57
J. O. D. Lilly	154 88
J. M. Lemon	325 95
H. P. Seymour	56 57
Able R. Angle	288 00
J. D. Swan	319 70
M. A. Stowell	206 60
William Braden	31 50
Monroe Wells	42 00
F. C. Bigelow	108 00
Fred. Baggs	23 63
F. Tiernan and —— Tiernan, partners as F. Tiernan & Bro	2,224 43
F. Tiernan and —— Tiernan, partners as F. Tiernan & Bro	27 78
Mary Welsh	139 50
Jacob S. Hildebrand and James L. Fugate, partners as Hildebrand & Fugate	81 38
Jacob Magley	101 10
Henry Gorham	77 92
C. M. Burkert	163 70
D. Sullivan	154 55
W. B. Canary	39 90
Jacob Magley	9 45
S. B. Corbaley	275 22
Jefferson Furnace Company	1,090 41
Anton Rasener and William Rasener, partners as A. & W. Rasener	478 95
—— Allen and —— Allen, partners as Allen & Brother	67 50
Eagle Machine Works	91 00
J. L. Spaulding	54 34
William E. Edwards	70 31
T. L. Canary	240 90
Thomas Clifton	64 82
A. Huddleson	42 75
Patrick Dickson	355 80
W. Bland	101 90
John Inlow	157 50
G. M. McClellan	122 98
Barnum & Richardson Manufacturing Company	2,190 09

	James Wall	$146 39
	John Reedy	71 70
	O. P. McCarthy	133 88
1301	I. H. Wilson	91 03
	W. H. Prouty	216 79
	W. Drinkout	207 09
	John W. Brown	466 35
	P. F. White	15 30
	J. M. Bortle	22 18
	W. Black	30 60
	Chauncey Kelsey	336 50
	C. C. Chamberlain	229 50
	Fred Stricken	90 25
	S. T. Ford	3 25
	William Van Schoick	59 07
	William D. Wiles, David W. Coffin, and Charles R. Smith, partners as Wiles, Coffin & Smith	230 38
	S. Fowler	257 60
	Thomas Burke	430 00
	S. H. Barney, administrator of estate of J. G. Sanger	294 13
	W. Morris	132 80
	H. C. Fiegler	185 07
	John Huddleson	45 00
	Charles H. Cady	105 26
	Thomas Burke	55 70
	Peter Gallagher	138 03
	Thomas Yount	424 18
	W. H. Dickerson	175 45
	John Roach	125 75
	T. J. Tilly	90 00
	Erhardt Kramm	51 25
	Robert Parker	147 09
	John Poland	68 40
	Lawson Booe	1,099 35
	J. C. Black	12 80
	Lyman Fenner	335 13
	Miner T. Ames Company	630 00
	Wm. Sim	77 03
	John L. McKee and R. McKee	139 78
	J. C. Maag	8 50
	Richard Broderick	25 00
	C. H. W. Werneke	52 77
	Frank L. Robinson	113 65
	Charles D. Webster, Benjamin M. Davis, and James M. Davis, partners as Webster, Davis & Co	3,734 88
	George W. McCurdy	200 90

	John Kerns	$137 00
	A. B. Gillett	203 19
	James Dukes, administrator of estate of H. Dukes	257 10
	William Strover	7 79
	Herman Strover	78 44
	Andrew Olson	234 45
	Jere. Ambrose	257 99
	W. H. Nevill	34 69
	James Braddock	315 74
	William Preston	97 45
	John Mealy	36 18
	Fred Borchers	232 40
	Fritz Meyer	162 00
	J. H. Wynd	208 50
	John Lindrot	210 45
1302	Thomas Richmond	259 93
	J. W. Brown	41 90
	Henry Chester	47 25
	Charles E. Mott	123 40
	D. H. Roach	47 25
	Michael Regan	61 20
	W. B. Carr	116 07
	John Naylor	152 65
	John W. Lindsay	225 00
	Reuben McIntyre	47 49
	P. Padgen	160 65
	John Reynolds	123 81
	Frank Bailey	389 10
	O. Thomas	22 05
	Frank Donelly	120 84
	David McClunn	81 68
	J. H. Helms	337 40
	Jere Quirk	105 10
	George Cruikshanks	410 67
	John Malone	158 42
	Robert Davidson	77 66
	Jo. Downey	125 72
	Herman Rolland	85 67
	Jo. Rolland	66 94
	Martin Mower	94 68
	D. W. Bruce	203 09
	Finn Blue	14 69
	John Hill	50 67
	Richard Boyle	212 75
	John Donahue	135 00
	William Voldt	214 20
	George Cummings	56 44
	Joseph Beaumont	66 63

	Isaac Littler	$32 38
	E. Kelly	97 41
	Jos. Johnson	226 82
	Adolph Maker	230 74
	Thomas P. Jones	336 95
	Alfred Lyons	209 70
	Daniel Sanderson	201 75
	William Holmes	174 30
	Thomas F. Cunningham	60 00
	David Lier	171 40
	James McWilliams	19 60
	J. W. Trenary	56 35
	William Doyle	171 81
	George Doyle	55 57
	Fred. Shoemaker	166 25
	M. F. Clark	23 25
	Patrick Ash	38 95
	Ed. Duncan	21 97
	James Loy	152 16
	C. Hess	14 60
	W. L. Pershing	179 33
	John Noonan	9 84
	Jo. Miller	217 53
	William T. Sutton	348 56
	Pat. Murphy	70 40
	Henry Teadtey	111 90
	J. B. Whitsett	201 60
	Louis Kreiger	186 24
	John Laird	170 01
1303	Charles Kreiger	81 11
	Frank Brickett	64 95
	John Wahl	228 59
	George Yanos	251 52
	S. A. Carter	220 55
	Charles Sell	182 18
	Gus. T. Johnson	137 70
	Timothy Lane	87 75
	Patrick Ryan	167 40
	Henry Stewart	172 24
	Thomas Nolan	5 47
	E. E. Phillips	635 35
	Joseph Park and —— Royer, partners as Park & Royer	386 49
	Samuel E. Long	246 65
	Frank G. Jacques	282 32
	Samuel Epstein	61 29
	J. H. Swearinger	40 50
	William A. Wilkinson	76 50
	Herman Myer	223 45

	M. D. Busey	$19 60
	V. W. Shuck	104 34
	P. D. Smith	164 05
	A. Johnson	98 48
	V. W. Shuck	73 46
	J. W. Shuck	66 94
	G. G. Webber	3 50
	—— Hollister and William H. Baker, partners as Hollister and Baker	43 67
	Harriet Hook	29 84
	John S. French	49 50
	Joseph Kline	214 60
	Patrick Coffey	706 49
	A. P. Cunningham & Co.	50 58
	D. H. Loper	16 67
	S. H. Busey	22 27
	Henry D. Stolte	39 38
	S. A. Carter	45 00
	Stephen A. Allen	199 59
	John Skellman	172 38
	A. Bowman	38 85
	Jo. Kreiger	226 19
	G. W. Dunlap	39 38
	Jere. Dwyer	304 06
	Henry Coburn and William H. Jones, partners as Coburn & Jones	155 71
	Wesley City Coal Company	2,695 57
	Levi C. Morris	20 70
	John A. Irwin	189 00
	Frank A. Maus	29 30
	Allen Coleman	38 95
	A. J. Allen	312 86
	Chris. Schetter	76 50
	Thomas J. Noble	343 55
	Charles Edgerton	75 55
	Pat. Farrell	35 10
	Thomas O'Dea	129 80
	Daniel G. Vollmer	249 70
	Pat. Hughes	166 50
	Michael Trees	33 90
	John Kistner	51 75
	Abram Van Tuyl	507 59
1304	Milton R. Miller	369 00
	Charles Mayer	20 48
	William Bottorf	177 41
	John Dwyer	75 90
	Morris R. Eddy and Charles M. West, partners as Eddy & West	204 85
	W. B. Todd	57 71

S. T. Ford	$288 44
R. H. Austin	228 86
L. A. McReynolds	96 47
H. C. Boyce	202 50
James Hayden	166 53
N. H. Phipps	161 61
Nicholas Motherway	220 02
Oscar D. Lewis	9 78
A. G. Kingman	481 99
Ed. Higgins	30 85
Thomas Troy	142 90
W. B. Walters	266 70
Michael Troy	141 70
Patrick Troy	145 05
James Shea	61 90
Frank Simons	53 45
I. C. Murray	184 66
James McLaughlin	114 32
Thomas Gouran	111 30
M. Conroy, Sr	207 90
W. K. Owens	170 93
Thomas Murphy	36 00
Mike Murphy	96 25
John Barrett	77 60
James Ryan	32 40
Lulu G. White	86 61
T. E. Halls	191 25
C. H. Foster	286 88
C. H. Foster	21 27
J. Clegg, Sr., and J. A. Clegg, Jr., partners as J. A. Clegg & Co	76 56
Cabinet Makers' Union	53 73
William H. Restieaux	52 10
John F. Yates	265 50
Mrs. C. Jones	296 30
Pat. Hand	36 45
T. E. Halls	25 04
Valentine Meier	148 40
W. F. Rupp	49 61
John Fleming	59 80
John A. Littler	72 45
John Dowling	114 10
Charles Cox	72 00
John Condon	461 45
F. M. Canady	116 40
George W. Graham and —— Graham, partners as Graham Brothers	443 60
Pat. Glacken	155 90
M. Cadle	66 68

	W. Kelly	$13 85
	E. S. Alexander	23 38
	D. F. Hill	87 40
	Con. Cronin	37 15
	John Condon	225 00
	Thomas Costello	56 25
1305	John Curran	69 75
	Thomas Brown	77 60
	Charles Bade	216 00
	John H. Bowlby	158 79
	S. T. Bell	150 36
	E. S. Alexander	91 80
	P. Gallagher	89 30
	M. Galvin	198 00
	Joseph Hickman	146 25
	Fred Hacker	153 60
	Joseph Hacker	134 45
	Dayton Hockenlay	104 25
	S. P. Hovey	98 92
	D. F. Hill	30 00
	C. Hilliard	48 55
	H. Jegar	120 65
	H. Jegar	265 35
	F. Klefker	173 25
	V. M. Lincoln	67 50
	Dan Dwyer	144 05
	T. Damlo	30 00
	John Felgenhauer	114 75
	John Kelly	89 70
	Jack Kelly	49 30
	Pat Hart	94 75
	James Hoolihan	88 15
	John Dowling	802 05
	L. A. Lucas	102 30
	L. A. Lucas	5 40
	Samuel Backus	110 70
	William Hoolihan	92 55
	J. N. McBroom	227 85
	M. Murphy	64 05
	P. Mulvihill	51 75
	Walter Martin	257 75
	H. J. Meeham	162 25
	Thomas Roach	13 04
	Gus. Markt	31 50
	Daniel McNurney	155 75
	Pat. McIntyre	120 90
	Pat. Murphy	188 35
	Fred. Ninke	129 95
	—— Mitchell and Octavius A. Crowley, partners as Mitchell & Crowley	54 40

	Joseph Yerger	$27 00
	John S. Little	226 84
	W. J. Crowther	96 61
	David S. Benson	51 66
	Deloss Root and David S. Benson	1,090 41
	William Daggett, George C. Webster and James W. Smither, partners as Daggett & Co	231 20
	F. A. Switzer	142 20
	Duain P. Whitney and Robert S. Johnson, partners as Whitney & Co	146 16
	John Walsh	75 05
	Robert Shaw	81 25
	L. G. Rand	45 00
	O. B. Corwin	311 48
	W. R. Throckmorton	16 20
	Richard M. Pinckney and Theodore Pinckney, partners as Pinckney Bros.	126 00
1306	N. J. Foley	34 20
	Henry Baden	351 30
	George Pfau and Patrick A. Ward, partners as Pfau & Ward	180 00
	A. Kostanzer	43 31
	Tim Sheehan	52 50
	J. W. Thompson	1,577 54
	Christian Waterman	69 77
	William M. Fletcher	271 30
	Sarah Conover	31 50
	N. E. Snow	130 15
	William Worrell	89 80
	A. W. Alexander	18 68
	John D. Johnson	59 85
	Jo. P. Horton	45 85
	Lewis Wagner	307 06
	C. H. Winecup	45 00
	O. C. Parmelee	74 97
	Alexander Spence	241 78
	Joseph E. Hunt	269 71
	John W. Somers	40 98
	C. F. Cummings	68 69
	Tim Sheehan	160 65
	Pat. Flisk	107 00
	Cornelius Griffin	165 25
	John Murphy	181 20
	Henry Bredehoft	43 20
	John W. Buckner and Wm. A. Coulson, partners as Buckner & Coulson.	597 10
	H. Barden and J. M. Barden, partners as H. & J. M. Barden	113 62

	Fred. Vuthrick	$50 00
	Nicholas Geiger	67 55
	Henry Sloan	356 30
	Wm. G. Sloan and Jonas P. Johnson, partners as Sloan & Johnson	372 40
	John Bowers	131 25
	Jacob M. Troutman	72 00
	J. D. Brown	24 00
	J. W. Hines	99 60
	George Bunn	529 65
	N. S. Hodge and W. M. Hodge, partners as N. S. & W. M. Hodge	11 28
	B. A. Buck	54 00
	Peter Keough	15 95
	Barnard Doulan	92 25
	John Sloan	225 00
	Ira Abbott	13 00
	James Persifer	49 50
	Con. Buckley	156 45
	C. Russmissell	22 05
	S. W. Baker	170 50
	Peter Keough	225 00
	J. W. Hines	14 75
	Frank Franz	146 90
	Charles Shultz	144 60
	Bernard Doulan	95 70
	S. A. Stillwell	29 25
	Joel M. Barlow	183 49
	J. D. Brown	239 55
	John Smith	21 00
	Henry Marshall	19 70
1307	J. W. Davidson	86 60
	James Belton	66 00
	Reason Bolton	15 00
	P. H. Scott	35 20
	Peter Standahar	48 35
	W. Nebeker	23 15
	William Bolton	33 20
	Peter Standahar	19 55
	J. W. Egbert	83 30
	Anthony Furlong	225 00
	W. H. Balsley	45 00
	John Nally	240 10
	Anthony Furlong	27 75
	John Nally	129 96
	Mark Carley	78 75
	W. E. Nicholas	49 65
	Bridget Hogan	48 30
	James Nicholas	242 39

	L. H. Parks	$118 50
	M. Y. Coleman	187 90
	W. B. Bailey	33 85
	J. F. Humphreys	191 14
	J. Nicklisson	844 67
	Michael Naughton	19 30
	William J. Lowry	599 30
	Herman Shultz	19 25
	—— Loomis	675 71
	Silas T. Bowen, Charles F. Haines, Darwin G. Eaton and Frank C. Eaton, partners as Bowen, Stewart & Co	490 94
	William Lamb and Lewis Haines, partners as Lamb & Haines	2,493 10
	L. Ludorf	18 00
	Eli Meiser	1,385 56
	—— Hoops and —— Townsend, partners as Hoops & Townsend	605 47
	James Sexton	53 70
	John Malone	42 20
	John Noonan	35 25
	Michael Mahoney	70 35
	John Sullivan	66 90
	Pat. Casey	70 80
	John Keefe	27 35
	William Hall	11 03
	August Lucas and —— Lucas, partners as Lucas Bros	42 75
	J. K. Kelley	32 50
	—— Heilman and Charles Dumser, partners as Heilman & Dumser	143 40
	J. G. Herget	184 50
	Florence Barrett	90 60
	Henry Hoer	332 55
	C. R. Cummings	25 20
	M. Bailey and T. I. Bailey, partners as M. Bailey & Son	206 57
	J. H. Besazk	192 90
	G. Kaufman	42 05
	E. M. Hobert	90 00
	E. M. Wheeler	45 00
	A. M. Rolofsen	75 00
	—— Oberly and Peter Euler, partners as Oberly & Euler	44 00
1308	J. Roos and Henry Roos, partners as J. & H. Roos	20 00
	H. J. Jaeckel	16 35
	Peter Weyrick and John Weyrick and	

—— Herring, partners as Weyrick, Herring & Co	$18 00
George J. Webber	310 40
August Lucas and —— Lucas, partners as Lucas & Bro	116 45
Wm. Bushel and —— Bushel, partners as Bushel Brothers	45 00
William Bloom	27 65
C. J. Elliott	18 05
John Cahill	15 60
Thomas Kelly	136 80
Dennis Mahoney	50 45
Wm. M. Lucas	117 35
J. H. Franks	560 30
D. Knapple	74 35
L. Dietrick	9 00
John G. Zimmer	25 00
Pat. Wheelan	18 75
Charles H. Ketcham	73 15
Edwin H. Price	184 75
George Ater	110 23
Pat. Lynch	24 60
—— Shipper and Henry Black, partners as Shipper & Black	21 70
S. Solomon and M. Solomon, partners as S. & M. Solomon	67 94
S. Webster	78 65
John Mink	138 95
G. L. McCray	30 40
P. Shehan	44 45
Tim O'Connell	776 05
Frank McCarty	150 25
N. Thompson	218 75
Thomas Moran	102 60
Cornelius Friedgen	375 00
M. Frees	16 20
John H. Lewis	1,774 06
John E. Knox	620 73
Hiram Rains	1,347 50
Pat. McDonald	172 81
Samuel Shultz	119 70
William Shultz	128 25
Charles Sodewasser	109 10
H. B. Stewart	106 14
Walter Vaughan	28 50
G. W. Smith	162 00
E. Silkey	9 58
Pat. Ruddell	49 55
Pat. Ruddell	54 00

	John Roach	$180 00
	J. F. Robison	113 58
	Barney Sheehan	716 80
	Wm. O. Shreve and —— Swearinger, partners as Swearinger & Shreve	139 92
	Con. Reagan	225 00
	John Poggendorf	129 35
	—— Maxwell and —— Wheeler, partners as Maxwell, Wheeler & Co	77 49
1309	United States Wind Engine and Pump Company	144 00
	Crescent Spring Company	421 87
	O. Shreve	90 00
	Christ. Priest	74 94
	A. Narry	77 60
	Jacob Rawling	172 40
	George H. Heitkam	234 54
	George W. Wheat	6 30
	Stephen Fowler	35 45
	N. Abrahamson	74 75
	W. Evans	21 55
	J. Condon	108 10
	G. E. Howe	46 06
	W. Hervey	19 05
	T. C. Tomlinson	10 10
	W. Hennessy	47 20
	Erastus Rhodes	89 55
	C. J. Elliott	119 82
	William Pfafflin	274 89
	J. Dobson	60 30
	G. T. Williams	122 65
	M. Lindley	37 41
	Hannah Curran	21 25
	Barney Sheehan	9 65
	Joseph Becker and Henry Schwinge, partners as Becker & Schwinge	171 04
	Susan Trout	82 10
	Atlas Works	192 50
	John Creerar, J. McGregor Adams and J. Hall Dow, partners as Creerar, Adams & Co	1,225 83
	John Birney	55 35
	—— Thompson and —— Pollard, partners as Thompson & Pollard	12 12
	W. W. Ward, administrator of estate of Uzal Ward	67 00
	Leon Kahn	113 35
	Joseph M. Whitsett	17 70

	James T. Layman, Simeon B. Carey and Harvey G. Carey, partners as Layman, Carey and Co.	$2,220 69
	J. Brandstetter	9 70
	Samuel M. Noel	23 65
	Edward C. Egan and Atwater J. Treat, partners as Egan & Treat	166 77
	Thomas G. Golden	6,279 32
	John Tucker	65 45
	John Rolf	104 80
	William Sardison	122 40
	George Bogend	168 15
	Dirk Tjarks	151 90
	Henry Runts	150 50
	E. A. Casey	67 50
	N. Shirtleff	9 00
	J. G. Thieme	62 10
	Carl Roll	176 50
	Charles Polster	86 30
	Jacob M. Main	105 15
	Charles J. Schneider	121 59
	H. A. Verrill	108 00
	Hezekiah N. Goe	30 00
	A. P. Poor	9 40
1310	T. J. Hogan	62 30
	Liberman I. Mossler and Solomon Mossler, partners as L. I. Mossler & Bro.	21 90
	C. Kinander	101 95
	William H. Roll and James W. Morris, partners as Roll & Morris	65 25
	Alfred H. Gladden, —— Cope and —— Hunt, partners as Gladden, Cope & Hunt	685 62
	Jesse Jones	352 33
	Pat. Walsh	161 50
	J. McManomy, (assigned to A. Gish.)	173 00
	J. Clove	152 78
	James F. Dain, —— Westlake and —— Covert, partners as Dain, Westlake & Co	512 23
	Austin Gunnison	3,786 14
	Amos Hook	73 50
	George Glasscock	338 63
	Charles P. Watson	53 13
	George W. Parnell	19 26
	Joseph Delworth, George Porter, H. M. Rolf and J. H. Swett, partners as Delworth, Porter & Co	3,647 47
	W. H. Brown	87 50

	Robert M. Lockhart and W. C. Lockhart, partners as R. M. & W. C. Lockhart	$77 15
	Edward C. Abdill and —— Abdill, partners as Abdill Brothers	27 00
	William Hurley, adm'r of M. Hurley, dec'd	57 40
	Pat Casey	8 25
	Joseph Bailey	18 75
	John Farrell	48 15
	Martin Brachall	23 00
	H. M. Kimball	33 25
	Thomas Conner	68 40
	Pat Rosater	81 00
	Joseph G. English	405 85
	Charles Stubbins	114 55
	Clinton D. Hunter	20 00
	John Grote	50 65
	William W. R. Woodbury	58 55
	William Henly	59 05
	Fred. Shultz	101 00
	William Silliman	68 60
	M. Barrett	14 15
	Jacob Hill	33 05
	Dietrich C. Smith and —— Felton, partners as Smith, Felton & Co	204 30
	Bernard Goldsmith	144 86
	Henry C. Adams, assignee of Indianapolis Brass and Supply Company	5,623 30
	Indianapolis Chair Company	250 00
	Francis Keay	101 90
	William Whitehead	59 40
	H. A. Ewing	43 00
	J. A. Saylor	24 30
	H. J. Oakwood	26 10
	Philip M. Gapen	10 42
	John C. Brown	41 70
	Gabler & Sherer	395 25
1311	Albert A. Knapp	160 75
	R. Maher	225 00
	W. S. Marshall	234 00
	Pat. Gavin	100 05
	M. C. Straight	163 15
	N. J. McConney	145 30
	James E. Mooney, Wm. A. Taylor and Wm. H. Smith, partners as Mooney, Taylor & Smith	1,779 40
	D. S. Hartshorn	283 44
	Julius C. Walk	161 68

Thomas E. Chandler and Franklin Taylor, partners as Chandler & Taylor	$72 90
William Burford	91 00
A. Burdell	180 00
W. E. Walters	68 60
J. P. Stewart	11 55
Henry C. Diehl	503 38
J. W. Adams	153 75
Isaac L. Franklin	177 18
Joseph G. English	229 80
E. Wells Sackett and George W. Sackett, partners as E. Wells Sackett & Brother	252 48
M. Conroy	41 20
Indiana Transfer Company	227 71
Western Union Telegraph Company	320 30
Wm. Dell, Frank M. Dell and Edward Dell, partners as Dell & Sons	30 49
Nancy Webb	54 95
Frank Linderman	27 00
David Colter	33 22
William G. Fuller	157 50
D. Hillman and —— Hillman and —— Hillman, partners as Hillman & Sons	610 68
D. W. Ross	72 40
Elijah Hewey	72 55
A. C. Bryant	45 52
S. F. Custer	15 52
John Leo	157 50
G. W. Harmison	262 47
George E. Howard	2,147 35
John W. Adams	435 60
C. S. Reynolds and Charles S. Cutter, partners as C. S. Reynolds & Co	1,342 51
S. E. Kenyon	32 00
E. Armstrong	27 13
William Dickson	37 63
W. H. Posey	232 40
Mary Marks	55 00
James F. Boots and — Canine, partners as Boots & Canine	12 37
Albert C. Jennison	7 20
John Sullivan	13 50
Samuel T. Busey and —— Busey, partners as Busey Brothers	653 82
Dennis O'Connor	9 00
E. H. Cushman	75 95
William Webb	332 95
William Brotherton	230 13

	Peter Peterson	$74 90
	Charles Schonheider	30 00
1312	H. O. Case	111 62
	Daniel Keplinger	50 95
	J. S. Clark	43 23
	James Phillips	127 25
	Franklin Pierce, administrator of estate of George Pierce	143 87
	J. W. Nichols	11 11
	S. T. Wright	28 44
	Joseph Tool	22 62
	J. B. Mercer	9 15
	Gus Freeman	45 68
	Peter Hamilton	67 60
	Wendell Farishon	88 77
	Wilber Holmes	96 68
	John Tierney	16 41
	William Stiebing	166 21
	Lewis Holliday	90 00
	L. Paramore	20 00
	James Fulton	125 17
	Thomas Murray	217 70
	William Williamson	94 00
	Thomas McCrabb	67 65
	Charles Backus	213 33
	Michael Motherway	6 30
	Dennis O'Brien	82 29
	A. W. Yant	63 04
	A. L. Woodard	162 00
	Jesse Wilkinson	144 00
	Joseph W. Wenger	95 15
	Lewis Miller	199 05
	Philip Johnson	123 24
	James C. Dunning	202 50
	John B. Roher	155 09
	C. W. Baker	197 18
	Edward Swan	292 10
	John Webb	97 26
	F. Shree	66 68
	J. Jackson	76 48
	Thomas Sheehan	69 45
	George B. Lott	29 62
	Thomas Stofer	142 63
	James Fahey	9 50
	L. W. Glass	270 00
	John Rotholz	84 55
	Edward Bartley	94 94
	Al. Hampton	60 95
	Rit. Calhoun	111 91

	John Adams	$27 60
	Martin Ryan	51 75
	James Barnard	17 15
	William Heller	46 90
	S. McWilliams, administrator of estate of Thomas McWilliams	45 57
	Aurelia Kellerstrous, administrator of the estate of Dan. Kellerstrous	165 25
	V. Phillips	136 55
	Frank Cornell and —— Smith, partners as Cornell & Smith	62 05
	Mrs. Ann Peters	104 75
	Second National Bank of Peoria, Ill	10,500 00
	Louis H. Mossler	59 65
	C. F. Lucas	748 30
1313	C. F. Lucas and Fabius M. Finch	959 88
	Fabius M. Finch for —— Maddox	761 25
	John Kitchen	358 00
	John Russel	34 45
	Barrett White	11 70
	Frank Mayer	31 95
	M. Raphael	15 30
	Henry S. Ottenheimer and —— Ottenheimer, partners as Ottenheimer Bros.	5 85
	J. A. Weil	28 00
	James Dunlap	12 21
	Augustus Spiegel, Frederick Thoms and Henry Frank, partners as Spiegel, Thoms & Co.	364 44
	W. McLaughlin	30 25
	D. H. Parmelee	35 53
	John Keiler	408 25
	C. W. Phillips	7 35
	M. Wright	57 70
	Wm. Neff	45 00
	T. J. Hogan	27 00
	A. Hedge	116 35
	C. Hicks	54 45
	Pat Curry	140 40
	John Secrist	127 80
	G. Runyan	135 00
	W. Slake	173 25
	Pat Kearney	69 35
	B. F. Tomlinson	180 00
	City of Urbana	325 50
	John L. Green and John L. Zimmerman, partners as Green & Co.	22 73
	J. A. Littler	60 75
	G. A. Newton	135 05

	John Ellis	$101 44
	Samuel M. Noel	12 50
	James Sullivan	13 50
	H. B. Hopkins and J. Herschel Morron, partners as Hopkins & Morron	185 75
	——Wrigley and William Cutter, partners as Wrigley & Cutter	401 40
	W. S. Mead, administrator of estate of S. D. Mead	118 13
	D. H. Parmelee	444 19
	Oliver McLaughlin	94 10
	W. W. Manspeaker	70 83
	N. R. Baker	62 55
	J. W. Hines	180 00
	E. E. Fleming	160 55
	L. M. Fairbanks	114 30
	J. F. Housman	180 00
	P. Anderson	32 95
	Edwin A. Davis	78 65
	N. E. Shaw	15 65
	Paul J. Murphy	29 25
	A. J. Poole	152 75
	E. P. Miller	25 33
	Milton M. Landis, Franklin Caldwell, and John C. McCutcheon, partners as Landis, Caldwell & Co	449 56
	J. W. Hendricks	405 95
1314	John Lightle	262 50
	B. M. Chaffee	1 75
	George W. Flynn and J. H. Woodmansee, partners as George W. Flynn & Co.	2,159 24
	George W. Flynn and J. H. Woodmansee, partners as Illinois Printing Co.	1,086 68
	Augustus Speigel, Frederick Thoms, and Henry Frank, partners as Speigel, Thoms & Co.	41 50
	Indianpolis Rolling Mill Company	11,308 63
	R. H. Carnahan	477 79
	J. D. McKenzie	30 50
	Fred Eynatten	25 00
	Williams Tool Company	280 00
	George Wooden	5,629 78
	Julia Tully	48 65
	P. W. King	198 20
	Pat. Thornton	138 40
	J. G. Blaine	577 50
	J. W. Perkins	52 32
	John Ryan	77 10

	D. P. Bagley	$65 63
	H. Connerty	67 38
	James Throckmorton	24 89
	Thomas Cassidy	95 15
	Pat Rowan	121 90
	James Walsh	199 80
	Samuel M. Cambern	25 00
	Simon Toolan	29 20
	George W. Graham and —— Graham, partners as Graham Brothers	440 65
	H. Peddicord	40 02
	W. I. Saffle	105 35
	B. Stimler	8 10
	H. Swannell	26 25
	Loranda Green	19 25
	A. Huff	25 38
	J. P. Webber	11 03
	W. D. Yount	56 90
	E. P. Miller	114 75
	J. A. Howland	31 25
	G. L. Bona	17 35
	C. L. Lowentrowt	8 55
	W. F. Larimore	41 55
	Charles Smith	50 50
	C. C. Culbertson	170 80
	John M. Longstreth	67 ≥8
	Miner Neal	123 80
	Charles Riley	105 80
	Henry Hunt	225 00
	John Bradbury	68 60
	James Broderick	75 15
	John J. Craig	57 45
	J. Case	17 72
	John Clifford	129 40
	David Rhodes	93 40
	A. C. King	8 90
	Jack Downey	31 05
	Benjamin Adams	37 10
	Pat. Dell	115 90
	Volney Freeman	59 28
	George Tamsett	359 98
1315	Thomas Cratty and —— Cratty, partners as Cratty Bros	96 15
	Henry Meyer	72 00
	Aloy C. Walker	56 31
	James Grant	81 00
	J. T. Neal	56 30
	D. J. Ford	58 55

L. A. Lucas and —— Lucas, partners as L. A. Lucas & Bro.	$24 90
Pittsburgh, Cincinnati and St. Louis Railroad Company	3,634 90
James Curley and John Curley	822 50
Albert P. Lewis	510 00
John Foster	74 00
E. G. Cornelius	306 00
J. Q. Jones	71 25
David E. Stout	8 31
T. J. Dolan	632 45
W. J. Morden	754 99
—— Smith, —— Hippen and E. F. Unland, partners as Smith, Hippen & Co.	40 25
Nelson Phipps	19 50
James E. Mooney, William A. Taylor and William H. Smith, partners as Mooney, Taylor & Smith	164 80
James Gookins and —— Martin, partners as Gookins & Martin	9 00
Benjamin E. Smith, assigned to George Nebeker and Abraham Gish	698 17
J. W. Wallace	103 56
W. H. Smith	126 04
G. W. Snyder	21 60
Horace Parrott and John R. Nickum, partners as Parrott, Nickum & Co.	28 50
L. Mayer	938 83
Livingston T. Dickson and Charles L. English, partners as Dickson & English	228 09
Citizens' National Bank of Indianapolis, Indiana	4,773 60
Jesse M. Richards	3,564 83
Charles W. Fairbanks	13 60
Deloss Root and Jerome B. Root, partners as D. Root & Co.	52 20
Charles C. Claflin	229 00
M. Kinney	71 65
Nicholas McCarty	228 25
James Frank	46 35
August Mai	66 60
David D. Long, assignee of R. S. Colter.	107 95
H. W. Hildebrand and —— King, partners as Hildebrand & King	72 45
W. L. Suggett	538 58
Henry C. Adams, assignee of —— Northrop	4,314 17

	James A. McKenzie	$5,802 37
	Reginald R. Parker	390 98
	William Burke	15 60
	A. F. Ramsey	1,501 60
	Benjamin Belldand, administrator of estate of David Rawles	26 60
1316	George Nebeker and Abram Gish, partners as Nebeker & Gish	550 00
	W. W. Coe	225 00
	George F. McGinnis, assignee of Wheelock P. Bingham	2,144 95
	John Beard	482 50
	Lutigue Roelfs, George S. DeVries, partners as Roelfs & DeVries	347 76
	John Weedman	136 00
	W. F. Slater	600 63
	Lawson Abbott	90 68
	Isaac Kahn	1,271 92
	C. A. Rathbun	330 30
	G. Beckenholdt	166 50
	Ephraim C. Dawes and John A. McGettigan, partners as Dawes & McGettigan	88 75
	Dennis Leary	142 30
	Alphonso Lent	1,885 60
	Patrick Coffey	20 49
	Pat. McIntyre	60 50
	Harry Dugan	25 00
	D. Grauman	30 14
	A. C. McPheeters	23 00
	H. C. Oliver	389 35
	Joseph Lammers	420 15
	C. M. Kelly and —— Huff, partners as Kelly & Huff	189 35
	—— Parker and —— Hopkins, partners as Parker & Hopkins	99 00
	Thomas M. Rinn	2,701 84
	David Meyer	195 13
	William M. Rice, administrator of estate of J. J. Rice	99 49
	B. F. Ayton	44 00
	Catharine Rusche	33 00
	Wm. J. Lowry	60 00
	Goldsmith Gordon	37 50
	E. H. Robinson	25 00
	J. B. Picketts	82 00
	Joseph E. McDonald, John M. Butler, Frank B. McDonald and George C. Butler, partners as McDonald & Butler	839 35

	—— Weldon and —— Aldrich, partners as Weldon & Aldrich	$780 00
	Robert G. Ingersoll	777 22
	Charles W. Fairbanks	331 55
	Peter F. Bryce	8 80
	George Nebeker	735 44
	Pullman Palace Car Company	6,207 52
	Elijah S. Alexander	638 75
	Robert Connely	748 49
	Morgan Lubricating Oil Company	877 19
	Patrick C. Leary, administrator of estate of John Hallerand	120 15
	George W. Flynn	292 79
	J. W. Todd	315 29
	Tim. Shay	86 95
	James Shay	63 86
	Henry C. Darnall	61 05
	Michael Grady	67 10
1317	Solomon Claypool and William A. Ketcham, for the use of P. Boderson	135 00
	Michael Gimbel	41 55
	Edward Hays	66 95
	Sarah G. Wingate	33 75
	William W. Martin	47 25
	Western Car Company	87,028 39
	To be paid into the registry of the court for the owner of the claim proved in the name of James A. Eads, receiver of the Paris and Danville Railroad Company	14,406 79

Said several payments shall be made with interest at the rate of three per cent. per annum from the 12th day of April, 1879, to the date hereof, in full and final payment and discharge of the unpaid purchase-money for said main line of said railway.

And the court does further order and decree that said Sumner R. Stone, Frederick D. Tappen, John Welsh, Jr., H. K. Thurber, and Philo C. Calhoun do, within sixty days, excluding Sundays, from and after the date of this decree, pay to said several intervening petitioners and claimants the several amounts set opposite their respective names; that is to say, to

Thomas Starr	$9 37
John Mickens	3 22
McLean County Coal Company	83 78
M. Keiger	15 58
Pat. Corbet	31 70
Michael Nolan	23 12
D. C. Cormack	5 55
A. H. Wood	7 50

	Hugh Martin	$27 23
	Duncan McLennan	37 80
	Phillip McLennan	25 05
	Alexander McLennan	7 42
	C. T. Richey	4 67
	Albert Porter	35 05
	Aug. Ahlrich	36 45
	Michael Bongart	20 87
	John Connerty	27 50
	Fred Clayton	16 45
	E. K. Clayton	46 77
	James Connerty	30 14
	J. Caldwell	308 25
	Frederick Davis	20 22
	A. Graham	12 88
	Thomas B. Hinckle	23 68
	J. P. Gossett	194 70
	Pat. Fitzgerald	2 20
	L. McLaughlin	40 50
	Herman Gerbing	15 73
	Sarah Holcup	211 08
	Barney Lynch	28 17
	G. Caspar Little	41 27
	James McGrath	22 93
	William Kerfoot	28 87
	C. F. Koesel	45 83
	Herman Damon	11 34
	Michael Hughes	131 20
	E. Heiserodt	52 79
	John McDermott	26 50

The several decrees herein against the purchasers of the Indianapolis, Bloomington & Western Railway extension are fully paid and satisfied. See supplemental decree in Order Book 8, page 469.

NOBLE C. BUTLER, *Clerk.*

1318	D. H. Price	$20 45
	R. D. Perry	13 01
	C. T. Richey	9 22
	Con Ryan	29 54
	Edward Sykes	35 22
	Stephen Smith	33 27
	George B. Johnson	13 77
	George Thompson	40 32
	C. E. Losey	365 05
	John Washer	8 91
	E. M. Jordan	14 79
	Jo. Walter	24 07
	Henry Weinke	15 07

Fred. Weinke	$32 59
Lewis Templin	32 87
John Tong	7 13
James Thorpe	26 82
John Shannon	42 47
S. S. Small	34 85
Henry Riley	18 07
M. F. Meagher	33 67
James Motherson	31 46
Chris. Mallendorf	19 55
John Medrow	28 14
John B. Burns	34 68
Melville Birney	5 61
Fred Washer	8 40
W. A. Billings	5 06
N. Cunningham	7 85
James Duncan	3 99
Charles Dunlap	3 95
James Cowley	25 01
John S. Creek	8 18
Pat. Bartley	57 58
John Bellchambers	29 45
W. C. Brant	36 16
Charles Bellefeild	22 06
S. C. Briggs	26 11
M. Bebus	12 16
S. M. Harvey	14 08
M. K. Frazee	6 34
Ed. F. Gordon	31 72
Thomas V. Losey	81 09
John Weinke	27 19
H. M. Call	5 62
Thomas Redding	47 29
J. P. Blue	2 69
Pat. McGrath	109 10
John R. Timpson	12 44
Pat. Fitzgerald	11 09
John Reynolds	3 46
Edward Henry	7 87
Z. E. Gill	5 36
J. T. Rittenhouse	8 72
Jessee Burt	2 09
A. H. Wood	162 00
Thomas W. McHugh	67
E. Halberstatt	5 62
Pat. Fitzgerald	90
Michael Doyle	10 75
John Cain	127 94
Pat. Manly	5 20

The several decrees berein against the purchasers of the Indianapolis, Bloomington and Western Railway extension are fully paid and satisfied. See supplemental decree in order book 8, page 469.

NOBLE C. BUTLER, *Clerk.*

1319	John S. Duncan	$5 62
	J. W. Loder	19 00
	P. O'Keefe	2 31
	A. Popkess & Bro	4 95
	Samuel Tarfinger	14
	J. M. W. Jones	69 42
	—— Walker Bros	10 12
	Samuel A. Johnston and William J. Johnston, partners as Johnson Brothers	51 66
	Jacob S. Hildebrand and James L. Fugate, partners as Hildebrand & Fugate	62 50
	J. S. Williams	14 96
	M. M. Buck	95 07
	W. Maltby	9 75
	Shaw Carriage Company	222 05
	Lydia Leeds	4 65
	—— Sackett & Rennick	253 75
	D. V. Cunningham	90 65
	H. Conkling	37 09
	—— Weyerhauser & Denkman	33 13
	Lincoln Coal Mining Company	180 11
	——Dickson & English	23 22
	James S. Hibben, Robert F. Kennedy, Coleman B. Pattison and Franklin Landers, partners as Hibben, Kennedy & Co	187 13
	A. Snedeker	886 58
	Frederick A. W. Davis, William H. Morrison, Samuel Miller, John F. Ketcham, Jane M. Ketcham, William Needham, Peter Ditmars and Peter J. Banta, partners as Indiana Banking Company	2,413 32
	E. H. Mayo	882 21
	M. E. Frazee	5 72
	Seth R. Evans	32 29
	David Case	19 92
	Charles J. Scmidt	80 32
	Robert Popkess	91 91
	William S. Barkley	33 75
	Matthew Fawcett	59 92
	Jacob Bush	10 08

John O. D. Lilly	$22 12
J. B. Alexander	99 80
Fred. Baggs	3 37
F. Tiernan & Bro	317 78
F. Tiernan & Bro	3 97
Jacob S. Hildebrand and James L. Fugate, partners as Hildebrand & Fugate	11 62
Henry Gorham	11 13
W. B. Canary	5 70
Jefferson Furnace Company	155 77
Eagle Machine Works	13 00
J. L. Spaulding	7 76
William E. Edwards	10 04
A. D. Davis	34 45
Daniel Haggerty	113 10
Thomas Clifton	9 23

The several decrees herein against the purchasers of the Indiana polis, Bloomington and Western extension, are fully paid and satisfied. See supplemental decree in order book 8, page 469.

NOBLE C. BUTLER, *Clerk.*

1320	A. D. Davis	$84 34
	G. McClellan	17 57
	Patrick J. Mullaney	104 00
	Barnum & Richardson Manufacturing Company	312 87
	James Wall	20 91
	O. P. McCarty	23 62
	I. H. Wilson	16 06
	W. H. Prouty	38 26
	W. Drinkout	29 58
	John W. Brown	82 30
	P. F. White	2 70
	J. M. Bortle	3 92
	W. Black	5 40
	Chauncey Kelsey	59 40
	C. C. Chamberlain	40 50
	S. T. Ford	50
	William Van Schoick	8 43
	William D. Wiles, David W. Coffin and Charles R. Smith, partners as Wiles, Coffin & Smith	32 77
	S. Fowler	36 80
	S. H. Birney, administrator of estate of J. G. Sanger	42 02
	H. C. Fiegler	26 43
	C. H. Cady	15 04
	Peter Gallagher	19 72

Thomas Yount	$60 59
—— Ayer & Lumsden	190 42
John Kelleher	244 85
—— Piatt, Hubbell & Co	149 25
F. C. Motherspaugh	126 00
John Ryan	89 80
James White	65 30
Richard Dickson	46 00
Frank Happy	78 80
Robert Parker	21 01
Lawson Booe	157 05
J. C. Black	2 25
A. H. Palmerton	189 55
Lyman Fenner	47 87
Miner T. Ames Company	90 00
William Sim	6 97
John L. McKee and R. McKee, partners as John L. & R. McKee	19 97
A. J. Wemple	52 05
A. J. Wemple	247 52
A. E. Weiner	58 50
C. H. W. Weinke	7 53
—— Webster, Davis & Co	533 55
Frank Lyons	26 10
John M. Jones	157 50
William Strover	1 11
Herman Strover	11 20
Jere Ambrose	36 86
W. H. Neville	4 96
James Braddock	45 11
William Preston	13 92
John Mealy	5 17
Pat. Dugan	15 10
William York	180 00
Hugh Hickey	72 45

The several decrees herein against the purchasers of the Indianapolis, Bloomington and Western Railway extension are fully paid and satisfied. See supplemental decree in order book 8, page 469.

NOBLE C. BUTLER, *Clerk.*

1321	M. J. Spencer	$144 00
	James Spencer	25 55
	Thomas Richmond	37 12
	Michal Dolan	202 50
	James Maloney	121 50
	Thomas Flynn	20 45
	Owen Sullivan	135 00
	John Mulligan	107 40
	Isaac Lascollett	25 35

T. P. Langon	$109 50
S. C. Langdon	22 85
Dan. Leo	13 20
James Fitzpatrick	42 45
John Cain	86 65
Mastezell Dietlinger	136 70
Alvin Caldwell	241 20
William Donald	240 95
Barney Maloy	79 60
Michael Kearney	69 90
E. C. Blaisdel	20 25
D. H. Roach	6 75
W. B. Carr	16 58
Pat. Scott	49 30
Reuben McIntyre	6 78
P. Padgen	28 35
N. Crow	44 10
John Reynolds	17 69
O. Thomas	3 15
Frank Donely	17 26
David McClunn	11 67
George Cruikshank	58 67
John Maloney	22 63
Robert Davidson	11 09
Jo. Downey	17 96
Herman Rolland	12 23
Jo. Rolland	9 56
Martin Mower	13 53
D. W. Bruce	29 01
Finn Blue	2 10
John Hill	7 23
William Voldt	30 60
George Cummings	8 06
Joseph Beaumont	9 52
Isaac Littler	4 62
E. Kelley	13 91
Joseph Johnson	32 23
Adolph Maker	32 96
William Holmes	24 90
James McWilliams	2 80
J. W. Trenary	8 05
William Doyle	24 54
George Doyle	7 93
Fred. Shoemaker	23 75
F. M. Clark	3 75
Patrick Ash	38 95
John Stiles	120 45
Ed. Duncan	3 13

James Loy	$21 74
W. L. Pershing	25 62
John Noonan	1 41
Jo. Miller	31 07
William T. Sutton	49 79

The several decrees herein against the purchasers of the Indianapolis, Bloomington and Western Railway extension are fully paid and satisfied. See supplemental decree in Order Book 8, p. 469.

NOBLE C. BUTLER, *Clerk.*

1322	Henry Tedte	$16 00
	J. B. Whitsett	28 80
	Lewis Creiger	26 61
	John Laird	24 29
	Charles Creiger	11 59
	John Wahl	32 66
	Phillip McVey	351 55
	George Yanos	35 93
	Charles Sell	26 02
	Henry Stewart	24 61
	F. A. Winslow	17 60
	Thomas Nolan	78
	Park & Royer	55 21
	Samuel E. Long	35 23
	Frank Q. Jaques	40 33
	Samuel Epstein	6 66
	Barwick & Baker	47 10
	M. D. Busey	2 80
	V. W. Shuck	14 91
	A. Johnson	14 07
	V. W. Shuck	10 49
	J. W. Shuck	9 56
	G. G. Webber	50
	Hollister & Baker	6 24
	Harriet Hook	4 26
	L. Holtzgrape	40 30
	Dennis Cullinan	139 50
	Charles C. Dorrell	107 40
	—— Cressmer & Bro	7 20
	—— Porter & Terell	114 80
	John Early	24 00
	Thomas Byrons	31 30
	E. M. Joyce	104 20
	James P. Smith	43 65
	G. H. Meyer	58 50
	Pat. Coffey	97 68
	John Henry	15 30
	Sarah Burke	122 65
	L. B. Chenoweth	7 70

Mrs. M. Loflin	$212 75
Matt O'Hair	230 20
Margaret Dunn	72 30
A. P. Cunningham & Co	7 22
D. H. Loper	2 38
S. H. Busey	3 18
Henry D. Stolte	5 62
James Coughran	71 35
Charles Smith	68 00
Stephen A. Allen	28 51
John Skellman	24 62
Joseph Crieger	32 31
G. W. Dunlap	5 62
Jerry Dwyer	12 60
Henry Coburn and Wm. H. Jones, partners as Coburn & Jones	22 24
Wesley City Coal Company	360 36
J. J. McGraw & Son	120 35
W. H. Storey	7 50
A. J. Storey	98 45
Harry Peddicord	20 80
Pat. McGuey	52 20
M. J. Pharis & Mahan	176 25

The several decrees herein against the purchasers of the Indianapolis, Bloomington and Western Railway extension are fully paid and satisfied. See supplemental decree in Order Book 8, page 469.

NOBLE C. BUTLER, *Clerk.*

	John Story	$15 30
1323	James McAboy	24 35
	C. C. Stone	242 65
	S. Frendenstein	203 70
	John A. Irwin	27 00
	A. J. McAboy	204 00
	Daniel Crang	49 30
	William Peddicord	6 20
	A. J. Allen	44 69
	Abram Van Tuyl	72 51
	Charles Mayer	2 92
	William Bottorf	25 34
	B. Clifford	123 80
	W. B. Todd	8 24
	S. T. Ford	41 21
	R. H. Austin	32 69
	L. A. McReynolds	13 78
	James Hayden	23 77
	N. H. Phipps	23 09
	Nicholas Motherway	79 43
	Oscar D. Lewis	1 39

A. G. Kingman	$68 86
Pat. Garvin	75 00
I. C. Murry	26 39
James McLaughlin	16 33
W. K. Owens	24 42
Lulu G. White	12 39
T. E. Halls	33 75
C. H. Foster	50 62
J. A. Clegg & Co	10 94
Cabinet Makers' Union	7 67
Henry Allison	58 75
M. Gill	299 25
T. E. Hall	4 41
W. F. Rupp	7 09
Oliver Anderson	29 70
M. Cadle	9 52
E. S. Alexander	4 12
S. Bell	21 48
E. S. Alexander	16 20
S. P. Hovey	14 13
Thomas Roach	1 86
John S. Little	32 40
—— Carle & Hovey	12 50
W. B. Rundle	28 00
W. J. Crowther	13 94
Deloss Root and David S. Benson	155 77
Mrs. B. Dickson	53 05
—— Whitney and R. S. Johnson	20 88
A. E. Weiner	22 50
A. Kostanzer	6 19
J. W. Thompson	225 36
A. W. Alexander	2 67
John D. Johnson	8 55
Jo. P. Horton	3 75
Lewis Wagner	43 87
Alexander Spence	31 00
Joseph E. Hunt	38 53
John W. Somers	4 57
C. F. Cummings	12 12
Buckner & Coulson	85 30

The several decrees herein against the purchasers of the Indianapolis, Bloomington and Western Railway extension are fully paid and satisfied. See supplemental decree in order book 8, page 469.

NOBLE C. BUTLER, *Clerk.*

1324	H. & J. M. Barden	$16 23
	Henry Sloan	9 00
	John Bowers	18 75
	J. M. Barlow	26 36

Mark Carley	$11 25
J. Nicklisson	3 18
William J. Lowry	78 50
Herman Shultz	2 75
Loomis & Co	96 53
Silas T. Bowen, Charles F. Haines, Darwin G. Eaton and Frank C. Eaton, partners as Bowen, Stewart & Co.	86 64
Lamb & Hanes	1 65
Julia Gehagen	64 40
Humphrey & Rogers	17 25
Eli Meiser	197 94
Hoops & Townsend	86 49
William Hall	1 57
S. Solomon and M. Solomon, partners as S. & M. Solomon	9 71
N. Thompson	31 25
John H. Lewis	253 44
John E. Knox	88 67
Hiram Rains	192 50
Pat. McDonald	24 69
Samuel Shultz	17 10
H. B. Stewart	15 16
E. Silkey	1 37
J. F. Robinson	16 22
—— Maxwell, Wheeler & Co	11 07
Crescent Spring Company	60 27
G. E. Howe	8 29
G. T. Williams	22 00
M. Lindley	5 34
C. S. Lisenby	28 80
John McNamara	243 00
Atlas Works	27 50
—— Creerar, Adams & Co	175 12
—— Thompson & Pollard	1 73
James T. Layman, Simeon B. Carey and Harvey G. Carey, partners as Layman, Carey & Co	317 24
Thomas G. Golden	897 04
John Tucker	9 35
—— Gladden, Cope & Hunt	97 95
Jesse Jones	62 18
—— Hall & Wasson	100 00
D. Blalock	16 25
T. Regdon	10 00
—— Ahrens & Rigdon	175 00
Jamison H. Wandell	170 60
Thomas Little	26 55

J. Cloze	$21 82
Dain, Westlake & Co	73 17
Gunnison & Co	540 88
Amos Hook	10 50
George Glasscock	48 37
Charles P. Watson	9 37
Delworth, Porter & Co	521 07
W. H. Brown	12 50
Bernard Goldsmith	20 69
Henry C. Adams, assignee of Indianapolis Brass and Supply Company	803 33

The several decrees herein against the purchasers of the Indianapolis, Bloomington and Western Railway extension are fully paid and satisfied. See supplemental decree in order book 8, page 469.

NOBLE C. BUTLER, *Clerk.*

1325	E. D. Webster	$11 45
	Francis Lowe	40 50
	J. Fitzgerald	14 40
	M. C. Straight	11 25
	N. J. McConny	25 70
	William Burford	16 00
	W. E. Walters	9 80
	J. P. Stewart	1 65
	Henry C. Diehl	88 82
	Isaac L. Frankem	11 02
	Joseph G. English	32 83
	E. Wells, Sackett & Bro	46 32
	Western Union Telegraph Company	56 52
	William Dell, Frank M. Dell and Edward Dell, partners as Dell & Sons	4 36
	Nancy Webb	7 85
	David Colter	5 85
	W. G. Fuller	22 50
	Hillman & Son	87 24
	A. C. Bryant	8 03
	S. F. Custer	2 22
	G. E. Howard	306 76
	C. S. Reynolds & Co	191 79
	Gulick, Taylor & Co	41 50
	E. Armstrong	3 87
	William Dickson	5 37
	D. R. Fenderson	116 00
	Busey Bros	93 40
	E. H. Cushman	10 85
	William Brotherton	32 87
	Ed. Maugher	25 90
	Thomas Kennedy	14 05

	John Tooley	$30 00
	F. Sedlatzeck	114 10
	H. O. Case	15 94
	J. S. Clark	6 17
	Franklin Pierce, administrator of estate of George Pierce	20 55
	Martin Hullihan	70 85
	J. W. Nichols	1 59
	S. T. Wright	4 06
	Joseph Toole	3 23
	Hiram Radley	2 95
	Gus Freeman	6 52
	Wendell Farishon	12 68
	Wilber Holmes	13 95
	John Tierney	2 34
	William Steibing	23 89
	James Fulton	17 88
	Charles Backus	30 47
	Dennis O'Brien	11 76
	A. W. Yant	9 01
	Pat Kelly	137 95
	Samuel Carson	109 95
	D. C. Dunseth	108 00
	Philip Johnson	17 61
	John B. Roher	22 16
	C. W. Baker	28 17
	John Kennedy	144 00
	William Burke	65 25
	John Doudell	24 85
	Michael Egan	38 25

The several decrees herein against the purchasers of the Indianapolis, Bloomington and Western Railway extension are fully paid and satisfied. See supplemental decree in order book 8, page 469.

NOBLE C. BUTLER, *Clerk.*

1326	Dan. Kellinan	$142 65
	Edward Swan	41 73
	John Webb	13 89
	F. Shree	9 52
	J. Jackson	10 92
	George B. Lott	4 24
	Thomas Stofer	20 37
	Edward Bartley	13 56
	Rit. Calhoun	15 99
	D. C. Crist	5 40
	James Barnard	2 45
	S. M. McWilliams, administrator of estate of Thomas McWilliams	6 51

Second National Bank of Peoria	$1,500 00
C. F. Lucas	106 90
C. F. Lucas and Fabius M. Finch	137 12
Fabius M. Finch for —— Maddox	108 75
Vail & Moody	1,011 74
M. Bushel	45 00
L. J. Bond	701 05
James Dunlap	1 74
Augustus M. Spiegel, Frederick Thoms and Henry Frank, partners as Spiegel, Thoms & Co	5 15
M. Milford	68 60
D. H. Parmelee	6 27
W. R. Moore	67 70
City of Urbana, Illinois	46 50
Pat. Raerdon	42 30
W. S. Mead, administrator of estate of	16 87
D. H. Parmalee	63 46
A. McLaughlin	14 25
W. W. Manspeaker	10 12
Milton M. Landis, Franklin Caldwell and John C. McCutcheon, partners as Landis, Caldwell & Co	64 22
John Lightle	37 50
George W. Flynn and J. H. Woodmansee, partners as George W. Flynn & Co	381 03
George W. Flynn and J. H. Woodmansee, partners as Illinois Printing Company	191 77
Augustus M. Speigel, Frederick Thoms and Henry Frank, partners as Spiegel, Thoms & Co	1 50
Indianapolis Rolling Mill Company	1,615 52
R. H. Carnahan	68 26
Oscar Loy	81 25
Williams Tool Company	40 00
George Wooden	804 25
J. G. Blaine	82 50
J. W. Perkins	7 33
H. Simonton	18 50
Mrs. J. W. Burke	295 00
D. P. Bagly	9 37
H. Connerty	9 62
J. O'Brien	536 30
James Throckmorton	3 56
H. H. Hockman	28 10

	A. Herrenknecht	$281 70
	J. H. Sparks	72 95

The several decrees herein against the purchasers of the Indianapolis, Bloomington and Western Railway extension are fully paid and satisfied. See supplemental decree in order book 8, p. 469.

NOBLE C. BUTLER, *Clerk.*

1327	J. McCartey	$23 80
	M. Morrison	23 40
	Pat. Rowan	121 90
	Owen Smith	162 70
	Pat. Hickey	212 60
	D. F. Lewis	119 70
	Henry S. Apple	10 80
	H. Peddicord	5 72
	W. I. Saffle	15 05
	Thomas Cooper	56 15
	H. Swannell	3 75
	Loranda Green	2 75
	A. Huff	3 62
	J. P. Webber	1 57
	E. P. Miller	20 25
	C. C. Culbertson	24 40
	John M. Longstreth	9 62
	J. Case	2 53
	A. Seymour	136 35
	Volney Freeman	8 47
	George Tamsett	51 42
	Nelson & Kidder	41 60
	Aloy C. Walker	8 04
	James Curley and John Curley	117 50
	Albert P. Lewis	90 00
	David E. Stout	1 19
	R. W. Porter & Co.	689 73
	T. J. Dolan	90 35
	W. J. Morden	107 85
	James E. Mooney, William A. Taylor, and William H. Smith, partners as Mooney, Taylor & Smith	23 54
	Benjamin E. Smith (assigned to George Nebeker and Abr. Gish)	123 21
	J. W. Wallace	14 79
	W. H. Smith	18 01
	M. Peterson	271 05
	L. Mayer	64 60
	Dickson & English	32 58
	Citizens' National Bank of Indianapolis, Indiana	681 94

Jesse M. Richards	$509 26
Charles W. Fairbanks	2 40
Henry C. Adams, asssignee of —— Northrup	1,343 75
James A. McKenzie	970 16
George F. McGinnis, assignee of Wheelock P. Bingham	150 65
Daniel Morrison	70 90
John Weedman	24 00
Isaac Kahn	89 33
Ephraim C. Dawes and John A. McGettigan, partners as Dawes & McGettigan	13 88
Dennis Leary	101 00
Alphonso Lent	32 11
Pat. Coffey	129 78
David Meyer	27 87
William M. Rice, administrator of estate of J. J. Rice	14 21
Charles W. Fairbanks	58 50
E. S. Alexander	91 25
Robert Connely	106 93
Morgan Lubricating Oil Company	125 31

The several decrees herein against the purchasers of the Indianapolis, Bloomington and Western Railway extension are fully paid and satisfied. See supplemental decree in order book 8, page 469.

NOBLE C. BUTLER, *Clerk.*

	George W. Flynn	$52 84
1328	J. W. Todd	45 04
	William W. Martin	6 75
	Robert G. Ingersoll	137 15
	Western Car Company	13,054 26
	To be paid into registry of court for the owner of the claim filed by James A. Eads, receiver of Paris and Danville Railroad Company	2,058 11

[Written on the margin:] The several decrees herein against the purchasers of the Indianapolis, Bloomington and Western Railway extension are fully paid and satisfied. (See supplemental decree in order book 8, page 469.)

NOBLE C. BUTLER, *Clerk.*

Said several payments shall be made, with interest at the rate of three per cent. per annum from the 12th day of April, 1879, to the date hereof, in full and final payment and discharge of the unpaid purchase-money for the extension of said railway. Said several amounts so to be paid as hereinbefore ordered by said purchasers of said main line and said extension respectively shall bear interest upon the several amounts named, together with said three per cent. interest accrued to this date, from the date of this decree, at the rate of six per cent. per annum until paid.

And it is further ordered and decreed by the court, as the counsel hereinafter named have performed service as well for their own clients as all other claimants, that of each and every of the sums hereinbefore ordered to be paid to said several intervening petitioners and claimants, eight per cent. of the amount of each claim, when it is paid, shall be by said respective purchasers paid to Joseph E. McDonald, John M. Butler, Frank B. McDonald, and George C. Butler, composing the firm of McDonald & Butler, and Solomon Claypool and William A. Ketcham, composing the firm of Claypool & Ketcham, without prejudice, however, to the right of said firms, or either of them, to additional compensation for services rendered to the special clients represented by them respectively.

The said purchasers of the said main line and extension having heretofore filed a stipulation for the distribution, as between them, of the payment of said several claims when the same should be ultimately and finally allowed, it is now here stipulated by and between them in open court that the foregoing orders and decrees for the payment of the said several claims are in accordance with the principles of the said before mentioned stipulation, without prejudice, however, to the right of either to review the findings and orders and decrees of the court on appeal to the Supreme Court of the United States, in regard to all questions, save and except the said distribution as between them.

The property and railway of the said Indianapolis, Bloomington and Western Railway Company, being situated in the district of In-

diana and in the Southern District of Illinois, and there having been foreclosure suits prosecuted in the Circuit Courts of the United States in each of said districts, and decrees rendered therein, and that part of said Indianapolis, Bloomington and Western Railway, commonly known and designated as the extension, being wholly in the Southern District of Illinois; and the purchasers of said extension having appeared in this court for the express purpose of settling all controversies involved without duplicating the litigation, it is now in open court expressly stipulated and agreed by the said purchasers of the said extension, and by the said purchasers of that part of the said Indianapolis, Bloomington and Western Railway, commonly known and designated as the main line, that a copy of this decree shall be filed and entered of record in the Circuit Court of the United States for the Southern District of Illinois forthwith, and that, from the filing and entering of record thereof, the same shall be and become of the same force and effect, and shall be in all things as valid and binding as though originally rendered
1329 and entered in open court in the said Circuit Court of the United States for the said Southern District of Illinois.

And it is further stipulated and agreed that in any appeal, or appeals, that may be taken and prosecuted from this decree, or from any part thereof, by said purchasers of said main line, or by said purchasers of said extension, or by any or either of said several intervening petitioners, or by any party in interest herein, any part of the record of this cause in the Circuit Court of the United States for the Southern District of Illinois not found entered in the record of this cause in the Circuit Court of the United States for the District of Indiana, shall be supplied from the record of said cause in the Circuit Court of the United States for the District of Illinois, and the same shall be and become part of the record of this cause in the said Circuit Court of the District of Indiana, with the same force and effect as though originally entered therein.

And it is further ordered that on the perfecting of any appeal to the Supreme Court of the United States from the said decree of the Circuit Court of the United States for the District of Indiana, if such appeal shall operate as a supersedeas, the execution of this decree in the said Circuit Court of the United States for the said Southern District of Illinois be stayed as to the matters so superseded to abide the event of said appeal.

And it is further ordered by the court that Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasers of said main line, do pay the costs of the reference under the order of February 18, 1880, to William P. Fishback, taxed at ——— dollars and ——— cents, and that said claimants do recover their costs herein taxed at ——— dollars, and the said the Farmers' Loan and Trust Company, by Turner, Lee and McClure, its solicitors, and the said Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasers, by their solicitors, objecting and excepting to that part and so much of the said decree as finds "that within the period named in said order of Feb-

ruary 18, 1880, the earnings of said Indianapolis, Bloomington and Western Railway that ought to have been applied to the payment of the several claims hereinafter referred to, were diverted to the payment of interest upon the bonded indebtedness of said railway company, additional equipment purchased for, and lasting and valuable improvements made upon said railway to the amount of $587,000," —for that there is no sufficient, competent or legal evidence of the said facts, and to *to* the orders and decrees for the payment of the said several claims by the said Austin Corbin, Giles E. Taintor and Josiah B. Blossom as purchasers, now here severally pray an appeal to the Supreme Court of the United States, which is allowed upon the filing of a bond as provided by the statute in the sum of $5,000, but the said bond shall not operate as a supersedeas.

Correct—The clerk will enter. T. D.

October 29, 1881.

Entered October 31, 1881.

And afterwards, to wit, at the May term of said court, on
1330 the 31st day of October, A. D. 1881, before Honorable Thomas Drummond and Honorable Walter Q. Gresham, judges as aforesaid of said court, the following further proceedings in the above entitled cause were had, to wit:

And now come the appellants, to wit, the Farmers' Loan and Trust Co., Austin Corbin, Giles E. Taintor, and Josiah B. Blossom, and tender an appeal bond in the penal sum of $5,000.00, with James D. Campbell and Charles W. Fairbanks as sureties, payable to Noble C. Butler, clerk, for the benefit of whom it may concern, which bond is received and approved by the court.

And said bonds is in the words following, to wit:

Know all men by these presents: That James D. Campbell, of the county of Scott and State of Iowa, and Charles W. Fairbanks, of the county of Marion, in the State of Indiana, are held and firmly bound unto Noble C. Butler, clerk of the Circuit Court of the United States for the District of Indiana, for the use and benefit of whom it may concern, well and truly to be paid unto the said Noble C. Butler, and his successors and assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors,
1331 and administrators, jointly and severally, firmly by these present. Whereas, lately, in the Circuit Court of the United States for the said District of Indiana, in a certain suit wherein Malcolm C. Turner and others were complainants in the original bill exhibited by them against the Indianapolis, Bloomington and Western Railway Company, and wherein the said the Farmers' Loan and Trust Company was complainant in the cross-bill exhibited by it against the said railway company, a decree was rendered against Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasers, from which the said Farmers' Loan and Trust Company and the said Austin Corbin, Giles E. Taintor and Josiah B. Blossom then and there prayed an appeal to the Supreme Court of

the United States, which was allowed: Now, the condition of the above obligation is such that if the said the Farmers' Loan and Trust Company and Austin Corbin, Giles E. Taintor and Josiah B. Blossom shall answer all costs if they fail to make their plea good, then the above obligation to be void; else to remain in full force and virtue.

Sealed with our seals and dated this 31st day of October, A. D. 1881.

J. D. CAMPBELL. [SEAL.]
CHARLES W. FAIRBANKS. [SEAL.]

And afterwards, to wit, at the November term of said
1331–1 court, on the 31st day of December, A. D. 1881, before the Honorable Thomas Drummond and the Honorable Walter Q. Gresham, judges of said court, the following further proceedings in the above entitled cause were had, to wit:

Come now the Farmers' Loan and Trust Company and Austin Corbin, Giles E. Taintor and Josiah B. Blossom, whose appeal herein has been duly allowed, and tender the bond of Henry Graves, of the county of Essex, in the State of New Jersey, and J. Rogers Maxwell, of the county of Kings, in the State of New York, in the sum of $200,000.00, to Noble C. Butler, clerk of this court, and his successor or successors in office, for the use and benefit of whom it may concern, conditioned for the prosecution of their said appeal to effect, and to answer all damages and costs if they should fail to make their plea good; and file their petition for the approval of said bond, a supersedeas, herein in the words and figures following, to wit:

1331–2 To the Honorable the Judges of the said Court:

Your petitioners, the Farmers' Loan and Trust Company, complainant in the said cross-bill, and Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasers of certain of the railroad and property of the said defendant, the Indianapolis, Bloomington and Western Railway Company, under the decree of this cour theretofore rendered, represent and show unto your honors that heretofore, to wit, on the 31st day of October, 1881, the decree of the said court was entered in the said suits, wherein the said court did order, adjudge and decree among other things that the said Austin Corbin, Giles E. Taintor and Josiah B. Blossom do, within sixty days, excluding Sundays, from and after the date of the said decree, pay to the several intervening petitioners and claimants in the said decree mentioned the several amounts set opposite their respective names.

And that your petitioners, the said Farmers' Loan and Trust Company, by Turner, Lee & McClure, its solicitors, and the said Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasers, by their solicitors, then and there prayed an appeal from the said decree to the Supreme Court of the United States, which was allowed
1331–3 upon the filing of a bond as provided by the statute in the

sum of $5,000, which said bond was by the terms of the order of this court not to operate as a supersedeas.

And your said petitioners now bring here into court the bond of Henry Graves and J. Rogers Maxwell, in the penal sum of $200,000, conditioned that the said appellants shall prosecute their said appeal to effect and answer all damages and costs if they shall fail to make their plea good.

And thereupon your petitioners respectfully pray your honors to appove the said bond, and to enter an order superseding the execution of the said decree pending the said appeal, so far as the same requires the payment of the said moneys by the said Austin Corbin, Giles E. Taintor and Josiah B. Blossom, purchasers as aforesaid.

FARMERS' LOAN AND TRUST COMPANY,
AUSTIN CORBIN,
GILES E. TAINTOR AND
JOSIAH B. BLOSSOM, *Appellants*,
By TURNER, LEE & McCLURE,
C. W. FAIRBANKS & J. D. CAMPBELL, *their Sol's.*

1331–4 And upon consideration thereof, the prayer of said petition is granted, and the said bond is approved and allowed to operate as supersedeas, and is endorsed as follows: "Decem'r 29, 1881.—This bond approved and allowed to operate as a supersedeas.

THOMAS DRUMMOND,
Cirt. Judge."

1331–5 And thereupon come the several intervening petitioners, in whose favor decrees were rendered and entered October 31, 1881, and file their exceptions to the action of the court in approving said bond and allowing the same to operate as a supersedeas, in the words and figures following, to wit:

And now comes each and every of the said several intervening petitioners, in whose separate and several favor decrees were rendered and entered on October 31, 1881, each for a sum less than five thousand dollars, and objects and excepts to the order and decree of the court granting a joint appeal from said separate several decrees, and to the order and decree of the court accepting a joint supersedeas bond, and superseding the execution of said several decrees, upon the following grounds of exception, with others:

1. Because the Supreme Court of the United States has not jurisdiction to hear and determine appeals from said several decrees, the amount decreed severally in favor of each of said intervening petitioners above described being less than the sum of five thousand dollars, exclusive of costs.

2. Because the decree of October 31, 1881, is *several* and
1331–6 not *joint*, decreeing severally to each intervening petitioner therein named a separate and several amount in no manner connected with or dependent upon any other of the several amounts decreed in favor of the several other intervening petitioners named in said decree.

Wherefore said petitioners aver that a single *supersedeas* bond cannot legally supersede the execution of several hundred separate and several decrees, wholly independent of each other and rendered and entered upon distinct, separate, and several pleadings and testimony.

3. Because said appeal is prayed and granted by the court, and said *supersedeas* bond is given and accepted by the court, in behalf of the Farmers' Loan and Trust Company, as one of the appellants, which corporation, as is clearly shown by the record, is not a party in interest in said appeal and is in no manner interested in the final issue of said appeal.

4. Because said appellants are seeking by said joint appeal and *supersedeas* prayed, and granted by the court, to appeal from a mere finding of the court which is not a final decree of the court, and upon which no one of said several decrees is wholly based or necessarily dependent.

1331–7 5. And said several intervening petitioners above described severally object and except generally to said order and decree granting a joint appeal from their said several decrees, and to said order and decree accepting and approving a joint *supersedeas* bond, and thereby superseding the execution of their said several decrees rendered and entered upon distinct, several, and separate pleadings and testimony.

And now comes each and every of the following named several intervening petitioners, to wit, Christian Waterman, A. Snedeker, Frederick A. W. Davis, William H. Morrison, Samuel Miller, John L. Ketcham, Jane M. Ketcham, William Needham, Peter Ditmars, and Peter J. Banta, partners as Indiana Banking Company; Edward H. Mayo, (claim assigned to Second National Bank, Lafayette,) Thomas G. Golden, Henry C. Adams, (assignee of Indianapolis Brass and Supply Company,) Second National Bank of Peoria, Illinois; Indianapolis Rolling Mill Company, George Wooden, Citizens' National Bank of Indianapolis, Indiana; James A. McKenzie, Pullman Palace Car Company, Western Car Company, owner of claim proved in the name of James A. Eads, receiver of the Paris and Danville Railroad Company; in whose favor separate and several

1331–8 decrees were rendered and entered on Oct. 31, 1881, each of said several decrees being for a sum greater than five thousand dollars, and objects and excepts to the order and decree of the court granting a joint appeal from the separate and several decrees rendered and entered on Oct. 31, 1881, and to the order and decree of the court accepting a joint *supersedeas* bond and jointly superseding the execution of said separate and several decrees rendered and entered on October 31, 1881, upon the following grounds, with others:

1. Because the Supreme Court of the United States has not jurisdiction to hear and determine appeals from any of the many hundreds of several decrees now sought to be joined in a single appeal, excepting only the fourteen several decrees in favor of the fourteen intervening petitioners last hereinabove named, because each and

every of said other several decrees, aside from the said fourteen several decrees above named, is for a sum less than five thousand dollars exclusive of costs, and because it is contrary to equity to burden the appeal taken from decrees within the jurisdiction of the Supreme Court with a mass of record and many hundreds of decrees not within the appellate jurisdiction of the Supreme Court.

2. Because the decree of October 31, 1881, is *several* and
1331-9 not *joint*, decreeing severally to each of said fourteen intervening petitioners last hereinabove named, a separate and several amount in no manner connected with, or dependent upon, any other of the several amounts decreed in favor of the several other, or any of the said several other intervening petitioners named in said decree of October 31, 1881.

Wherefore said fourteen intervenors avér that a single joint appeal cannot legally be taken from fourteen distinct, separate, and several decrees rendered and entered upon distinct, separate and several pleadings and testimony, and that a single joint supersedeas bond cannot legally supersede the execution of fourteen separate and several decrees, independent of each other, and depending upon distinct, separate and several pleadings and testimony.

3. Because said appeal is prayed and granted by the court, and said supersedeas bond is given and approved by the court in behalf of the Farmers' Loan and Trust Company as one of the appellants; which corporation, as is clearly proved by the record, is not a party in interest in said appeal, and is in no manner interested in the final issue of said appeal.

4. Because said appellants are seeking by said joint
1331-10 appeal and supersedeas prayed, and granted by the court, to appeal from a mere finding of the court, which is not a final decree of the court, and upon which no one of said several decrees is wholly based, or necessarily dependent.

5. And said fourteen several intervenors last hereinabove named severally object and except generally to said order and decree granting a joint appeal from their said several decrees, and to said order and decree accepting and approving a joint supersedeas bond, and thereby superseding the execution of their said several and separate decrees, rendered and entered upon distinct, several and separate pleadings and testimony.

Here follows the appeal bond.

1331-11 In the Circuit Court of the United States, District of Indiana.

MALCOLM C. TURNER et al., Complainants,
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY and others, Defendants.
} Original Bill.

THE FARMERS' LOAN AND TRUST CO., Complainant,
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY and others, Defendants.
} Cross Bill.

Know all men by these presents: That we, *Henry Graves*, of the county of Essex, in the State of New Jersey, and *J. Rogers Maxwell*, of the county of Kings, in the State of New York, are held and firmly bound unto Noble C. Butler, clerk of the said court, in the just and full sum of *two hundred thousand dollars* ($200,000), to be paid unto the said Noble C. Butler, clerk as aforesaid, and to his successor or successors in office, for the use and benefit of whom it may concern, in such proportions as they shall be severally of right entitled, as their several interests may hereafter be made to appear, to which payment, well and truly to be made, we bind ourselves,
1331–12 our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this fourteenth day of December, in the year of our Lord eighteen hundred and eighty-one.

Whereas lately, in the said above entitled suits depending in the said court, a decree was rendered against the said Farmers' Loan and Trust Company, and against Austin Corbin, Giles E. Taintor, and Josiah B. Blossom, purchasers of certain of the railroad and property of the said defendant, the Indianapolis, Bloomington and Western Railway Company, under a decree of the said court theretofore rendered in the said suits, and the said the Farmers' Loan and Trust Company, and Austin Corbin, Giles E. Taintor, and Josiah B. Blossom, having prayed an appeal to the Supreme Court of the United States, which was duly allowed in the said Circuit Court:

Now, the condition of the above obligation is such that if the said the Farmers' Loan and Trust Company, and Austin Corbin, Giles E. Taintor, and Josiah B. Blossom shall prosecute their said appeal to effect and answer all damages and costs if they shall fail to make their plea good, then the above obligation to be void;
1331–13 otherwise to be and remain in full force and virtue.

HENRY GRAVES. [SEAL.]
J. ROGERS MAXWELL. [SEAL.]

Sealed and delivered in presence of—
To the signature of Henry Graves:
JOHN A. OSBORN.
J. D. CAMPBELL.
To the signature of J. R. Maxwell:
SIDNEY DEKAY.
J. D. CAMPBELL.

STATE OF NEW YORK,
City and County of New York, } *ss.*

I, Henry Graves, of the county of Essex, in the State of New Jer-

sey, having been first duly sworn, do say on oath that I am one of the sureties named in and who executed the foregoing bond; and that over and above all debts and liabilities which I owe, or have incurred, and exclusive of all property exempt by law from levy and sale under an execution, I am worth more than the sum of one million dollars. HENRY GRAVES.

Sworn to by the said Henry Graves, before me, a commissioner of the Circuit Court of the United States for the southern district of New York, and subscribed by him in my presence at the
1331–14 city of New York, in the said district, this fifteenth day of December, A. D. 1881.

[SEAL.] JOHN A. OSBORN,
United States Commissioner, S. D. N. Y.

STATE OF NEW YORK, }
City and County of New York, } *ss.*

I, J. Rogers Maxwell, of the county of Kings, in the State of New York, having been first duly sworn, do say on oath that I am one of the sureties named in and who executed the foregoing bond; and that over and above all debts and liabilities which I owe, or have incurred, and exclusive of all property exempt by law from levy and sale under an execution, I am worth more than the sum of one million dollars. J. ROGERS MAXWELL.

Sworn to by the said J. Rogers Maxwell, before me, a commissioner of the Circuit Court of the United States for the southern district of New York, and subscribed by him in my presence at the city of New York, in the said district, this 19th day of December, A. D. 1881.

[SEAL.] SIDNEY DEKAY,
U. S. Commissioner, S. Dis't N. Y.

1331–15 U. S. OF AMERICA, }
S. Dis't of N. Y., } *ss.*

I, Joseph M. Deuel, clerk of the Circuit Court of the United States for the southern district of New York, do hereby certify that the sureties on the foregoing bond, to wit, Henry Graves and J. Rogers Maxwell—when the justification of the latter shall be sworn *to*—are each good and sufficient for the penalty thereof, to wit, the sum of two hundred thousand dollars.

In testimony whereof I have hereunto set my hand and the seal of said court, this 15th day of Dec., 1881.

[SEAL.] J. M. DEUEL,
Clerk U. S. Circuit Court, S. D. of N. Y.

Dec'r 29, 1881.—This bond approved and allowed to operate as a supersedeas. THOMAS DRUMMOND,
Cir't Judge.

Here follow the reports of the receiver, covering the
1332 time from December 1st, 1874, to October 24th, 1881, the date of his discharge.

1333 *Report of Receiver.*

DeWitt Circuit Court,
Montgomery Circuit Court, } March Term, 1875.

MALCOLM C. TURNER and others
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY and others. } Chancery.

The undersigned, appointed receiver of the said Indianapolis, Bloomington and Western Railway Company by the decretal order of this court entered on the 18th of November, 1874, respectfully reports to the court:

That he duly entered into full possession of all the corporate property of said railway company, as instructed by the order of appointment, and that to prevent great confusion and difficulty in stating the accounts which would result by dividing a month, the accounts of the receiver began with December 1, 1874.

In compliance with the order I have caused a full inventory to be made of the roadway appurtenances and all property which came into my hands, and submit the same herewith in twelve exhibits, marked "A No. 1" to A No. 12," inclusive, distributed under
1334 convenient and appropriate heads.

Two matters connected with the motive power and car equipment of the railway require very special and immediate attention and disposition at the hands of the court.

A large number of cars in service upon the line belong to the Western Car Company. In the judgment of your receiver, the amount of such cars greatly exceed the wants of traffic, and the rental charged, which is an absolute monthly rental and not a mileage based on actual use, is in excess of the ability of this company to pay. I notified the officers of the car company in January that 500 of the cars were not needed for service and were held subject to its order, and that I desired a reduction in the rental as to the remainder.

Of the 73 engines in use upon the road, 28 are claimed to be owned by the Rogers Locomotive and Machine Company of Paterson, N. J. Such claim of ownership is based upon an alleged conditional sale, under which title was agreed not to pass to the railway company until full payment of the purchase price of the engines. This purchase-money is evidenced by a large number of the company's notes, which, together with interest, are unpaid. Demand has been made upon me to return the engines or pay the notes. I have taken no action in the premises, but have prepared and here-
1335 with submit a petition, accompanied with divers papers, asking for instructions from the court concerning these two matters of equipment.

Of the class of preferred claims provided for in my order of appointment, they may be stated as follows:

Unpaid pay rolls since July 1, 1874, as per Exhibit "B 1"	$250,316 99
Unpaid supply bills, etc., since July 1, 1874, as per Exhibit "B 2"	62,448 49
The unpaid pay rolls of a date earlier than July 1, 1874, amount, as per Exhibit "B 3," to	31,402 10
And the unpaid supply bills of a date prior to July 1 amount, as per Exhibit "B 4," to	32,060 12

Inasmuch as there seems to be some dissatisfaction expressed against the limitation upon the receiver's power in the order whereby he is restricted in payments out of the surplus above current expenses to claims since July 1, 1874, your officer suggests the propriety of a modification of the order in that regard by striking out the limitation as to time.

A peculiar liability which is ordinarily treated as preferential and payable in full as trust funds are the current balances due the
1336 connecting roads at the date of the appointment for freight and ticket collections. This amounted, according to the books of the corporation, as per schedule "C," to $20,570.72.

The State, county, and other taxes upon the corporation and its property in Illinois for the year 1873 remain wholly unpaid, as per schedule herewith appended, marked Exhibit "D;" they are claimed to amount, in the aggregate, to $106,775.62.

Of this enormous sum only $22,517.31 was a tax levied upon the actual property of the corporation. The remainder of the assessment, $84,258.31, was a tax called "capital stock tax," which was assumed to be assessed upon the actual value of the bonds and stock of the company, less the assessed value of its tangible property. By this method of taxation the board of equalization reached a valuation of over $4,000,000 on the capital stock. An injunction was granted by the United States Circuit Court at Chicago against the collectors, prohibiting the collection of the tax and enjoining the company from paying any portion of it, and that injunction is still in full force. The assessment is so disproportioned and excessive that its enforcement would be most destructive to the corporation and its customers.

1337 The receiver herewith exhibits statement of his receipts and disbursements for the months of December, January, and February in schedules "E," "F," and G," showing a balance in his hands carried over to the month of March of $85,270.10.

The receiver has been able to meet all the current expenses of discharging his trust out of the revenue coming into his hands, and has met his labor rolls promptly at the middle of each month, and has not incurred any extraordinary expenses, either in service, renewals or repairs, which he does not expect to be able to discharge from usual traffic revenue.

It has been the earnest effort of the receiver to cut down the ex-

penditures for operation to the lowest figure consistent with the efficient conduct of the business of the line, and this has been rendered absolutely necessary, taking into consideration the fact that in consequence of the severe and long continued competition between certain of the eastern trunk lines the whole passenger and freight traffic has become disorganized, and the bulk of business has been done at non-paying rates, and the general shrinkage in gross revenues of the main western railways has been from 15 to 30 per cent.

Your receiver has taken the responsibility of declining to
1338 observe certain coal contracts under which the main part of fuel was costing the company not less than $1.95 per ton, and now procures adequate supply of the same coal for engine consumption at $1.50 per ton.

The receiver reports that he found the equipment and roadway to be in inferior condition—the rails badly worn, largely increasing the wear and tear, causing accidents, delays, and large and constant expenditures for repairs to the equipment, and greatly damaging the business of the line.

This subject is especially brought to the attention of the court by a separate petition, herewith submitted, wherein the court is asked to take specific action on the subject of the immediate improvement of the roadway. For the general security of its bondholders, and in the interest of the travelling and business public dealing with the line, the necessity for prompt action upon the petition is most urgent.

GEORGE B. WRIGHT, *Receiver.*

Subscribed and sworn to before me this 19th day of March A. D. 1875.

WM. H. HARRISON, *Clerk,*
By THOMAS W. WHEELER, *Deputy.*

1339 INVENTORY OF PROPERTY TAKEN POSSESSION OF BY THE RECEIVER DEC. 1, 1874.

A No. 1.—*Invoice of Main and Side Track.*

	Miles.	Total miles.
Road, Indianapolis to Pekin, main track.....	202.3	
" " " " side "	28.1	
" Champaign to Havana, main "	100.7	
" " " " side "	6.5	
" White Heath to Decatur, main "	30.9	
" " " side "	1.7	
		370.2
Leased Lines.		
Road, Pekin to Peoria, main track.....	9.2	
" " " side "	3.0	
		12.2
		382.4

A No. 2.—Buildings.

1 Griggs House and furniture.
10 freight stations.
5 coal sheds.
52 stock pens.
1 tool house (Urbana.)
30 engine stalls (brick.)
3 turn tables, iron.
1 blacksmith shop (Urbana.)
1 machine shop.
1 office and other small buildings.
6 passenger stations.
39 freight and passenger in same house.
9 boarding houses.
29 water stations.
11 tool houses.
4 engine stalls, wood.
3 turn tables, wood.
3 blacksmith shops.
1 car shop.
1 oil house and fixtures.

1340 *A No. 3.—Passenger, Freight and Miscellaneous Cars.*

PASSENGER CARS.

No. of cars.	Kind.
27	passenger coaches.
5	baggage, express and mail cars.
5	baggage and express cars.
3	baggage and smokers' cars.
2	postal cars.

All the above cars marked Indianapolis, Bloomington and Western Railway and "I., B. & W."

FREIGHT CARS.

No. of cars.	Kind.
220	box cars, marked "I., B. & W."
117	stock " " " " " "
171	coal " " " " " "
104	flat " " " " " "
13	caboose " " " " "
10	pilot " " " " " "
29	box " " " " " "
3	boarding " " " " "

RENTED FREIGHT CARS.

1020	box cars marked "I., B. & W." (S.)
100	coal " " " " " " "
50	stock " " " " " " "

MISCELLANEOUS CARS AND STEAM SHOVEL.

61	hand cars marked "I., B. & W." (on sections.)
1	" car " " " " " " telegraph department.
1	" " " " " " " at shops.
53	push cars " " " " " on sections.
2	" " " " " " " at shops.
1	derrick car complete" " " " No. 1.

1341

1	ditching " " " " " No. 1.
1	steam shovel " (The different parts being marked "C. W. Smith, G. M., I. B. & W. Ry.")

A No. 4.—Locomotive Engines.

Engine.	Manufactured by.
No. 1.	Rhode Island Locomotive Works.
No. 2.	Rogers " and Machine Works.
No. 3 to No. 38, inclusive.	Rhode Island " Works.
No. 39 to No. 44, inclusive.	Hinckley & Williams Locomotive Works.
No. 45 to No. 72, inclusive.	Rogers Locomotive Works. (These are claimed by Rogers Locomotive and Machine Works.)
No. 73.	Rhode Island Locomotive Works.

A No. 5.—Tools on Hand in Engineer's Department.

498 shovels.
222 picks.
70 tamping bars.
128 lining "
27 crow "
109 claw "
163 spiking hammers.
44 sledge "
241 cold chisels.
29 punches.
6 augurs.
75 adzes.
61 axes.
51 hatchets.
43 hand saws.
64 white lanterns.
24 red "
150 track wrenches.
29 monkey "
1 wheel barrow.
64 bush scythes.
100 oil cans.
3 blocks and tackles.
20 ratchet drills.
14 water kegs.
43 water buckets.
8 mattocks.
18 badlocks.
4 plows.
4 spades.
1342 3 cross-cut saws.
72 track gauges.
47 track levels.
2 vises.
1 tinner's rolls, (sets.)
1 2 in. stock.
1 1 "
2 2½ in. dies.
1 2 "
1 1½ "
1 1 "
1 ¾ "
1 ½ "
2 2½ in. tongs.
2 2 "
2 1½ "
1 1¼ "
1 3 "
2 pipe cutters.
1 cup dies.
8 post augurs.
31 spike-maul handles.
6 adze "
11 ax "
9 picks "
2 chisels.
2 braces.
5 tills.
2 baravic wrenches.
1 transit.
2 leveling rods.
2 tape lines.
2 levels.

OFFICE FURNITURE.

5 desks.
2 chest drawers.
1 drawing table.
2 letter presses.
2 tables, (small.)
2 stoves.

1 pair shears.
1 2½ in. stock.
7 chairs and one stool.

A No. 6.—Tools on Hand at Shops.

Urbana Machine Shops.

905 lbs. steel tools.
230 " iron "
208 " reamers, taps, etc.
1 pair small scales.
4 large stoves.
3 iron wheel barrows.
2 wooden " "
11 vises.
1343 3 face plates.
1 pair ratchet jacks.
1 pair level jacks.
1 surfacing screw press.

Boiler Shop:

1192 lbs. iron tools.
194 lbs. steel tools.
38 lbs. reamers, etc.
2 screw punches.
2 prasser tube expanders.
2 dudgen "
1 set rolles.
2 rivet forges.
1 hand punch.
6 flange blocks.
6 wheel cover formers.
2 screw punches.
1 pair shears and punches.
1 pair stand shears.

Round-house and Oil Room:

85 lbs. cast steel tools.
250 lbs. iron tools.
14 wrenches.
14 hammers.
1 challenge pump.
200 feet rubber hose.
1 pair large scales.
1 pair small scales.
17 large stoves.
4 jacks.
5 bench vises.
4 bench screws.
3 facing plates.
3 oil tanks (4 bbl.)
1 large oil tank (4,000 gal.)
2 oil tanks (3 bbl.)
1 grind-stone.

Car Shop and Yard.

1 iron wheel barrow, 1 wooden w. b.
18 hand screws, 55 cast steel tools.
24 15 in. wrenches, 31 hammers.
7 12 " " 6 large jacks.
6 Eng. jacks, 7 small jacks.
1 bench vise, 5 stoves.

Peoria Shops:

1 screw plate and 3 dies.
6 cold chisels.
10 taps.
1 ratchet drill.
3 punch bars.
2 ratchet jacks.
2 small jacks.
7 hammers.
15 lbs. steel tools.

Indianola Round-house:

1 42-inch bellows.
1 anvil.
4 sledge hammers.
35 pair tongs (226 lbs.)
89 lbs. iron swages.
160 lbs. steel tools.
60 lbs. iron tools.
1 crane.
2 vises.
1 hand drill.
6 large stoves.
2 ratchets.
3 jacks.

Indianola Car Shops:

1 iron wheel-barrow.
10 monkey wrenches.
11 hammers.
6 sledges.
6 c. chisels.
2 ratchet jacks.
10 screw jacks.
4 punch bars.
150 feet rub. hose.
2 step-ladders.
1 grind-stone.
1 pair scales.
4 vises.
2 pair stocks.

1 forge and bellows.
1 anvil.
50 lbs. York wrenches.
1 sledge.
9 monkey wrenches.
1 pk'g hammer.
2 small stoves.
1344 1 stove (at Craw'ville.)
2 differential pulley blocks (2 & 3 tons.)
1,200 lbs. engine springs (new.)

Blacksmith Shop:

1 36-inch bellows.
1 40-inch bellows.
11 anvils.
7 squares.
1 rail block cut.
1 swage block.
1,315 cast steel tools.
1 cast cone.
3,255 lbs. wt. iron tools.
1 cast water.
2 cranes.
1 anvil.
1 vise.
1 face wt. cast iron.
1 bellows and flues (at Covington.)

Paint Shop:

8 50-gallon cans.
2 paint mills.
1 5-gallon can.
1 pair scales.
3 10-gallon cans.
1 stove.
1 iron kettle (40 gallons.)
1 marble slab 16 inches square.
21 taps.
7 sets dies.
2 stoves.

Tin Shop:

1 cruse iron.
1 pair shears, No. 9.

Pattern Shop:

1 doz. each 10 and 13 inch. hand screws.
623 patterns for iron.
260 patterns for brass.
1 pair large shears, No. 00.
1 pair shears, No. $6\frac{1}{2}$.
1 pair shears, No. 5.
1 pair shears, No. 2.
1 blow horn.
1 candle mold.

Stakes:

1 hatchet stake.
4 30-inch folders.
1 grooving machine.
1 20-inch folder.
1 punch, ea. $1\frac{3}{4}$, $1\frac{1}{2}$, 1, $\frac{3}{4}$, $\frac{1}{2}$, $\frac{3}{8}$, $\frac{1}{4}$.
1 peck srage.
1 pair 3 feet rollers, 2 inch.
1 swaging machine.
1 turning machine.
1 burning machine.
1 bake iron.
1 pinning down machine.
1 pair cutting pliers.
1 large stake.

Office and Store Room:

2 letter presses.
6 desks.
4 chairs.
2 stoves.
1 stool.

1345 *A No. 7.—Machinery at Shops.*

1 steam gauge and tester.
81 feet 3 in. by $2\frac{3}{4}$ in. shaft.
970 lbs. $2\frac{3}{4}$ in. flanges.
282 lbs. 3 in. flanges.
507 ft. leather belting.
86 ft. 18 in. leather belting.
1 St. drills $\frac{3}{8}$ to $1\frac{1}{2}$x16 in.
3 drill sockets.
1 No. 2 pump.
1 No. 4 Sturtevant blower.
1 shaft, 3 x 16 ft. 5 in.
4 $2\frac{3}{4}$ in. flange coupling.
1 3x$2\frac{3}{4}$ in. flange coupling.
1 12x36 Corliss stationary engine
1 40-H. P. boiler.
1 2 in. tube expander.
1 $1\frac{3}{4}$ in. tube expander.
1 duplex 10x6x10 pump.
1 $1\frac{1}{2}$-ton Doyle's pulley block.
1 $1\frac{1}{2}$-ton Doyle's pulley block.

1 9 in. 4-jawed chuck, fitting to 14 in. lathe.
1 small turner and S.
1 650 lb. steam hammer and anvil, complete.
4 clasp pulleys.
1 8 in. shaper.
1 200 ton pressure gauge.
1 No. 1 Up't drill.
3 drill sockets.
2 Ea. screw gears for 16, 24, 28, and 36 lathe.
1 No. 6 Wilder's press with 2 punches and dies.
1 double hd. driving wheel lathe, with quartering and crank pin bearing attachment and line shaft pulleys.
1 No. 2 bolt cutter, with set ea. $\frac{5}{8}$, $\frac{3}{4}$, and $\frac{7}{8}$ dies.
1346 2 portable forges.
1 car wheel borer.
1 No. 2 Up't drill.
1 14 ft. by 36 in. lathe.
1 7x18 lathe.
1 16x26 Eng. lathe, with compound rest and cross feed.
1 21 4-jawed chuck fitter.
19 forge drills, $\frac{3}{8}$ to $1\frac{1}{2}$ with turned shanks.

1 9 in. 4-jawed chuck, (Horton.)
1 creasing swage.
1 12 ft. by 20 wood lathe.
1 hydraulic wheel press.
1 clasp pulley, 18 dia., 6 in. face.
1 5 ft. by 14 in. lathe.
1 8x24 in. lathe.
1 24 in. chuck.
1 32x12 in. engine lathe.
1 27 in. 4-jawed chuck fitter.
2 12x10 in. clasp pulleys.
1 12 in. shaping machine.
1 hand punch.
1 pr. hand shears.
1 No. 2 bolt cutter with taps and dies.
1 6 ft. by 26x26 in. planer.
1 12 in. chuck.
1 pulley, 5 feet dia., 18 in. face.
1 24 in. 4 jawed chuck fitter.
12 pulleys.

A No. 8.—Material on Hand at Shops.

Oil, Waste, Tallow, &c.:

925 lbs. white waste, @ 11 c.	$101 75		
55 gallons signal oil, @ 85 c.	46 75	$148 50	
1652 lbs. C waste, @ 10 c.	165 20		
175 gallons headlight oil, @ 21½ c.	37 62	202 82	
1840 lbs. tallow, @ 8 c.	147 20		
3625 gallons lubricating oil, @ 15 c.	543 75	690 95	
450 lbs. dope, @ 9 c.	40 50		
125 " hemp packing, @ 13 c.	16 25	56 75	
300 " candles, @ 24½ c.	73 50		
360 " Bridge's lubricant, @ 10 c.	36 00	109 50	
			$1,208 52

Bar and Plate Iron:

700 lbs. hoop and band, @ 6 c.	42 00		
2520 " B. & D., @ 4 c.	120 96	162 96	
23,927 " common B. B. average, @ 3½ c.	837 45	837 45	

8315	"	Tennessee, @ 9 c.	748 44		
3685	"	flange, @ 10 c.	368 50	1116 94	
345	"	angle, @ 7½ c.	25 90		
161	"	Galo'd, @ 15 c.	24 15	50 05	
2800	"	common sheet, @ 5½ c.	146 33		
		Lowmore Tyre	14 45	160 78	
1347				2,328 18	
100,055	"	casting iron, @ 3¾ c.	3752 03		
7,095½	"	casting brass, @ 35 c.	2483 36	6,235 39	
					6,235 39

LUMBER, ETC.

8679 ft. ash lumber, @ 4c	347 16		
88,190 ft. oak lumber, @ 2c	1,763 80	—2,110 96	
6965 ft. pine lumber, avg. @ 4c	278 60		
3461 ft. walnut lumber, @ 5c.	173 05	— 451 65	
42,065 ft. poplar, @ 3½c		1,472 27	
			4,034 88
19½ tons bloss coal	175 00		
50 bushels charcoal	8 30	— 183 30	
			183 30

PAINTER'S MATERIAL.

25 lbs. whiting	50		
10 " burnt umber	4 50	— 5 00	
15 " R. umber	6 00		
15 " raw seinia	3 00		
15 " b't sienia	3 75	— 12 75	
10 " Vandyke brown	1 00		
20 " Tuscan red	1 80		
20 " Venetian red	4 00	— 6 80	
65 " chrome yellow	19 50		
60 " mag. green	12 00		
15 " scar. ver	6 25	— 37 75	
12 " eng. verm	15 00		
10 " paris green	6 00		
10 lbs. moir green	3 00	— 24 00	
1348 5 " ind. red	1 50		
20 " prussian blue	10 00		
6 " ultra blue	2 40	— 13 90	
5 " white shelac	1 25		
12–20 books gold leaf	5 04	— 6 29	
6 lbs. rose pink	6 00		
8 " chat. lake	4 96	— 10 96	
2 " munch lake	13 00		
6 bbls. 4 ace paint	438 00	— 451 00	
1 " winter mineral	9 50		
Brushes etc	26 30	— 35 80	
			604 25

VARNISHES, OIL, ETC.

23 gals.	J. O. D. Lilly's Eng. wearing		126 75	
2 "	ex. loco	10 00		
2 "	rub, @ 3.75	7 50—	17 50	
3 "	I. Copel	10 50		
3 "	white damhr, @ 1.50	4 50—	15 00	
5 "	inside flow, @ 3.00	15 00		
4 "	Eng. wearing, @ 4.00	16 00—	31 00	
2 "	Eng. wearing	9 75—	9 75	
45 "	turpentine	24 80		
34 "	C. Japan	42 35—	67 15	
10 "	B. oil	8 70		
15 "	R. oil	15 00—	23 70	
400 lbs.	white lead, in oil		44 08	
	Common glass		200 00	
	Mirrors	25 72		
	Enn'l glass	8 60—	234 32	
				569 25

1349 STEEL, BRASS, BOLTS AND NUTS.

1600½ lbs.	cast steel, @ 33c.	528 16	
	Sheet brass	11 00—	539 16
84 lbs.	bar copper	36 79	
3000 cg.	bolts, avg	90 00—	126 79
400 lbs.	hex. nuts, @ 12c	48 00	
1360 "	square nuts, @ 7c	91 32—	139 42
			805 37

WHEELS AND AXLES.

2 pr.	N. T. car wheels	105 00	
5	trucks	94 00	
8½ prs.	tender	280 00—	374 00
25	S. W. ft. car wheels	412 50	
9 pass.	ft. car wheels	166 50—	579 00
10 new	axles from New Albany		150 30
			1,208 30

LOCKS AND CAR JACKS, ETC.

8	car jacks	46 30	
4	brass coach locks	24 00—	70 30
12	door locks	15 00	
	Sash locks and fixtures	12 96—	27 96
			98 26

LANTERNS, GLOBES, ETC.

25	red lanterns	50 00	
20	red globes	35 00—	85 00
10	green globes	10 00	
8	red globes	8 26—	18 26
30	flags	9 35	
	Rubber hose	45 60—	54 95
2	axes	1 55	

	Files, various sizes	52 50—	54 05	
1350	15 scoop shovels	22 00		
	Saws	1 75—	23 75	
				236 01
	1740 lbs. washers	174 10		
	2555 " nails, @ 7c	178 82—	352 92	
	8 rubber car springs		88 50	
				441 42

CAR TRIMMINGS.

Bible racks	49 00		
87 lbs. seat arms	16 00		
100 " B. cord	23 00—	88 00	
9 side lamps	63 00		
12 center globes	24 00		
6 center lamps	120 00—	207 00	
19 vent. rings		40 07	
			335 07

SCREWS.

2300 lbs. lag. screws, @ 12c	276 00		
175 grs. common screws	176 00—	452 00	
100 " S. C. & M. plated screws		372 39	
			824 39

LAMPS, ETC.

2 bracket lamps	4 20		
4 hand lamps	3 00		
Chimneys	20 13—	27 33	
4 dozen burners and wicks		15 00	
Gas pipe	6 88		
Sand and Emery paper	70 70—	77 58	
			119 91

Incidentals.

	129 lbs. hinges	$16 00		
1351	Glue	6 25		
	Bone dust	9 72		
	Borax	10 00—	41 97	
	Matches	10 00		
	Soap	4 50		
	2 hoppers	24 00		
	Brads and tacks	4 60—	43 10	
				$85 07

Engine Repairs.

Wire netting	$176 48		
1,208 lbs. rivets	193 28—	369 76	
1 incomplete and 1 complete check ch.		64 00	
125 lbs. crank pins	18 86		
6 steam gauges	36 00—	54 86	
5 head-light burners	15 00		

head-light chimneys, - - -	16 73—	31 73	
Tripoli, - - - - - - - - -	12 00		
Gum packing, - - - - - - -	9 00—	21 00	
			$541 35
Total, - - - - - - - -			$19,858 92

A No. 9.—Material in Engineer's Department.

Quantity.	Material.	Quantity.	Material.	
170	tons, mills and old iron.	2	2½ in. " Y's."	
6274	cross ties.	4	2-in. " Y's."	
242	switch ties.	1	1½-in " Y's."	
3	head blocks.	1	1¼-in. " Y's."	
358	bridge ties.	1	¾-in. " Y's."	
1400	chairs (estimated.)	1	2½-in. unions.	1352
18425	lbs. railroad spikes.	2	2-in. unions.	
1050	lbs. boat.	3	1½-in unions.	
2400	lbs. splices.	3	1-in. unions.	
3420	lbs. bolts.	4	¾-in. unions.	
4	frogs.	1	½-in. unions.	
13	switch stands.	1	reducer, 1 in. to ¾.	
30	switch rods.	5	reducers, ¾-in. to ½.	
6865	fence posts.	2	2-in. plugs.	
2060	lbs. nails.	1	1½-in. stop cock.	
31576	ft. oak timber.	3	¾-in. check valves.	
21197	ft. pine timber.	1	1-in. " "	
468	piles.	1	¼-in. globe "	
24	head chairs (common.)	1	1-in. " "	
43	" " (patent.)	1	¾-in. " "	
150	ft. 3-in. pipe.	1	gauge cock.	
95	ft. 2½-in. pipe.	5	bib "	
55	ft. 2-in. "	2	pet "	
50	ft. 1½-in. "	2	hose bands.	
10	ft. ¾ in. "	9	" nozzles, 10-in.	
5	2½-in. elbows.	4	" " 6-in.	
10	2-in. "	5	2½-in. flanges.	
4	1¼-in. "	3	2-in. "	
2	1-in. "	7	air chambers.	
3	¾-in. "	5	junctions for Curtis pump.	
7	½-in. "	2	pump caps.	
16	2½-in. sockets.	2	Curtis pumps (complete.)	
24	2-in. "	2	2½-in. foot valves.	
2	1¼-in. "	2	2-in. " "	
2	1-in. "	4	cog-wheels, (heavy.)	
3	¾-in. "	4	spur-whee's (with posts.)	
3	½-in. "	5	bevel pinions (small.)	
8	2½-in. nipples.	2	main shafts.	1353
6	2-in. "	3	master wheels.	

2	1½-in. nipples.	1	grate for Cameron boiler.
8	1¼-in. "	2	No. 18 iron sheets.
1	1-in. "	2	" galv. "

A No. 10.—Fuel on Hand.

Coal.			Wood.		
No. of Tons.	Rate.	Total.	No. of Cords.	Rate.	Total.
686	$1.80	$1,234.80.	240	$3.20	$768.00
308	2.00	616.00.	316	2.50	790.00
			428¼	2.95	1,284.75
994		$1,850.80	984¼		$2,842.75

A No. 11.—Furniture in General Offices.

Department.	Description of Furniture.
General Manager's Office:	1 black walnut standing desk, 6 feet long.
	1 " " office table, 4 feet by 5 feet.
	1 " " " " 3 " " 5 "
	1 " " " " 2½ feet by 3½ ft.
	1 " " letter press stand, drawers and case.
	2 swing desk chairs.
	6 office chairs, black walnut and cane.
	1 Hall's safe, No. 5.
	1 copying press, 10x14.
	2 revolution stoves and pipe, No. 14.
Secretary and Treasurer's Office:	1 black walnut standing desk, 6 feet long.
	1 " " low " closing top
	1 " " cylinder "
	1 " " letter press stand.
1354	2 swing desk chairs.
	1 " stool.
	1 Hall's safe, No. 9.
	1 " " No. 12.
	1 copying press, 15 in. by 19 in.
	1 revolution stove and pipe, No. 16.
	1 pine, black walnut moulding, counter, glass top.
Superintendent's Office:	1 black walnut cylinder desk.
	1 " " low " case top.
	1 " " " " case and bottom.
	1 " " " " " " bottom.
	1 black " office table, 2½ ft. by 4 ft.
	4 swing desk chairs.
	4 office " Delaware.
	1 stained letter press and case stand.
	1 stained stationery case.

Superintendent's Office: 1 " table and top case, (Car Recorder's)
1 copying press, 15 in. by 19 in.
1 revolution, No. 16, stove and pipe.
1 Hall's safe, No. 14.
1 time card diagram.

General Freight Office: 1 black walnut low desk, closing top.
1 " " " double desk, drawers and case.
1 " " " desk, top and side cases.
1 " " office table, 2½ ft. by 3½ ft.
2 " " " " 2 ft. by 3 ft.
1 " " letter press, stand, drawers and cases.
1 " " stationery case, 7 ft. by 7 ft.
3 swing desk chairs.

1355 3 office chairs, "Delaware."
1 copying press, 10 in. by 14 in.
1 revolution, No. 16, stove and pipe.

General Ticket Office: 1 black walnut low desk, closing top.
2 " " " piano desk, top cases.
1 " " office table, 4 ft. by 2¾ ft.
1 " " letter press, stand, drawers and case.
1 " " ticket case, 6 ft. by 8 ft.
1 " " baggage stationery case, 4 by 8 ft.
3 pine, black walnut moulding ticket case, 6 ft. by 8 ft.
1 stationery case, 3 ft. by 7 ft.
3 swing desk chairs.
1 desk stool.
6 office chairs.
1 copying press, 10 in. by 14 in.
1 revolution, No. 16, stove and pipe.
1 " No. 14, stove and pipe.
1 " No. 3, stove and pipe.

Auditor's Office: 1 black walnut standing desk, 6 ft. long and ex. wide.
1 black walnut standing desk, 6 ft. long.
1 " " " " " dbl.
1 " " low desk, top case.
2 " " " top and bottom.
1 " " low desk and cases.
1 " " low desk, closing top.
1 " " low desk, sq. top and bottom, cases.

1356 1 black walnut ticket case, "distributing."
1 " " case 7¾ ft. by 7¼ ft., vouchers and books.

Auditor's Office:	1 black walnut letter press, stand, drawers and case.
	1 black walnut table, 2 ft. by 3½ ft., plain.
	1 ash table, 2 1-3 ft. by 3 ft.
	2 swing desk chairs.
	3 desk stools.
	5 office chairs.
	1 copying press, 15 in. by 19 in.
	1 Hall's safe, No. 9.
	1 revolution, No. 16, stove and pipe.
	1 Cheerful, No. 10, stove and pipe.
Paymaster's Office:	1 black walnut low desk, top case.
	1 desk stool.
	2 office chairs.
	1 Herring's safe, 2 ft. 3 in. by 3 ft. 3 in. by 4 ft. 2 in.
	1 Cheerful, No. 12, stove and pipe.
	1 counter and wire top.
Telegraph Office:	3 telegraph tables.
	1 battery case.
	4 office chairs.
	1 leather lounge.
	1 clock, "W. P. Bingham's Regulator."
	1 Radiator, No. 3, stove and pipe.
Attorney's Office:	1 black walnut, sq. top desk, side drawers.
	1 black walnut and cane office chair.
	2 office chairs, "Delaware."
1357	1 Cheerful, No. 10, stove and pipe.
	1 copying press, 10 in. by 14 in.

A No. 12.—*Furniture at Stations.*

Indianapolis Station:	1 black walnut standing desk, 6 ft. long.
	1 " " low " case on one side.
	1 telegraph table.
	1 long table.
	1 Dodd's, Macneale and Urban safe, No. 5.
	1 copying press, 15 in. by 19 in.
	1 " " 10 in. by 14 in.
Indianola Station:	1 black walnut standing desk, double.
	2 " " low " top cases.
	1 " " " " side cases.
	1 " " " "
	1 office table.
	1 long table and copying press, 15 in. by 19 in.
Peoria Station:	2 black walnut standing desks, double.
	1 " " low desk.
	1 telegraph table.

1 letter press stand.
1 copying press, 15 in. by 19 in.
1 Dodd's, Macneale & Urban safe, No. 12.

Other stations as follows: 1 clock, 62 settees, 19 tables, 57 desks, 16 copying presses, 3 safes, 52 ticket cases, 43 ticket stamps, 66 chairs, 16 stools, 81 stoves and fixtures, 3 baggage trucks, 31 W. H. trucks, and 16 platform scales.

1358 Payments to be made by the receiver under previous orders of the court:

Schedule "C."

Balances due railroads on account of the interchange of business:

For freight balances.	$ 3,589 46
For ticket "	12,522 77
For mileage "	4,458 49
Total	$20,570 72

Schedule "D."

Unpaid taxes, December 1st, 1874:

Vermillion county for 1873	$9,161 17
Champaign " "	17,512 63
Piatt " "	11,728 02
De Witt " "	14,371 09
McLean " "	12,620 97
Tazewell " "	13,196 68
Logan " "	12,714 82
Mason " "	15,470 24
Total	$106,775 62
On road and equipment	$22,517 31
On capital stock	84,258 31
Vermilion county for 1874	$ 3,130 16
Champaign " "	9,839 80
Piatt " "	5,022 81
De Witt " "	4,740 66
McLean " "	5,624 74
Tazewell " "	3,626 34
1359 Peoria " "	44 82
Macon " "	2,001 58
Logan " "	3,470 32
Mason " "	4,791 11
Total	$42,292 34
On road and equipment	$38,370 11
On capital stock	3,922 23

Hendricks county for 1874	$1,125 98
Montgomery " "	2,177 75
Fountain " " . . . about	1,650 00
Total	$4,953 73
Grand total	$154,021 69

Exhibit "B" (1.)

Unpaid pay-rolls since July 1st, 1874:

July, 1874	$27,587 51
August, 1874	49,605 27
September, 1874	55,579 92
October, 1874	60,274 31
November, 1874	57,269 98
Total	$250,316 99

Exhibit "B" (3.)

Unpaid pay-rolls prior to July 1st, 1874:

March, 1874	$1,524 73
April, 1874	4,355 85
May, 1874	7,561 34
June, 1874	17,960 18
Total	$31,402 10

1360 *Exhibit "B" (2.)*

This contains a list of the names and amounts due to each person and firm, on vouchers for general supplies, services rendered, stock killed and other damages, since July 1st, 1874:

For general supplies	$47,321 97
For account services rendered	9,526 77
" " stock killed and other damages . .	5,599 75
Total	$62,448 49

Exhibit "B" (4.)

Schedule of vouchers of unpaid supply bills, etc., prior to July 1st, 1874:

For general supplies	$31,015 51
" account services rendered	376 15
" " stock killed and other damages . .	668 46
Total	$32,060 12

Exhibit of Receipts and Disbursements for Month of Dec., 1874, "*E.*"

Indianapolis, Bloomington and Western Railway, in account with George B. Wright, receiver, for the month of December, 1874:

Received from I., B. & W. Railway	$2,718 58	
" " Local agents	86,509 90	
" " U. S. Express Company	540 00	
		$89,768 48
Paid for Current Expenses:		
On account pay rolls, due discharged men		$1,483 00
Voucher No. 1	$60 00	
" No. 2	35 80	
" No. 3	20 75	
		116 55
Paid on ac't balances due other R. R's.:		
Voucher No. 4, Mileage	1,244 29	
" No. 5, Tickets.	8,164 61	
		9,408 90
1361 Paid on ac't I., B. & W. R'y Pay Rolls:		
As per vouchers on file		26,694 55
Balance on hand		52,065 48
		$89,768 48

Exhibit of Receipts and Disbursements for Month Jan., 1875, "*F.*"

Indianapolis, Bloomington and Western Railway Company, in account with George B. Wright, receiver, for the month of January, 1875:

Received from balance forward from December	$52,065 48	
Received from Local Agents	95,507 43	
" " Foreign Roads	1,075 11	
" " U. S. Government, account mail service	1,783 02	
Received from U. S. Express Co	1,019 77	
" " Miscellaneous	1,334 15	
" " I., B. & W. Railway	9,855 89	
		$162,640 85
Paid for Current Expenses:		
On account Dec. Pay Rolls		$55,963 72
" Jan. "		890 01
Vouchers No. 6 to 93, inclusive		28,162 24
Balances due Foreign Roads, Dec.		25 48
Paid Balances due other Railroads:		
Voucher No. 94, Ticket Balances	$3,981 48	
" No. 95, Freight Balances	3,982 72	
" No. 96, Mileage	633 19	
		8,597 39

	Paid on account I., B. & W. Railway:		
	Voucher J. W. Brown, Ticket Commissions	$299 19	
1362	W. M. Shaw, Passenger Agts.	276 53	
	Danville Gas Co., (gas.)	10 45	
	Peoria Gas Co., (gas.)	23 35	
	U. S. Express Co., services	136 78	
	Peoria Water Works, (water.)	158 33	
	D. F. Hill, Agent	2 61	
	August Pay Rolls	70 00	
	September Pay Rolls	119 40	
	October Pay Rolls	113 95	
	November Pay Rolls	71 75	
			1,282 34
	Balance on hand		67,719 67
			$162,640 85

Exhibit of Receipts and Disbursements for Month Feb., 1875, "*G.*"

Indianapolis, Bloomington and Western Railway, in account with George B. Wright, Receiver, for the month of February, 1875:

	Received from balance forward from January	$67,719 67	
	" " Local Agents	98,981 22	
	" " Foreign Roads	9,799 22	
	" " Miscellaneous	2,859 84	
	" " I., B. & W. Railway	13,523 87	
			$192,883 82
1363			
	Paid for Current Expenses:		
	Vouchers No. 97 to No. 284, inclusive		$39,768 22
	Balances to Foreign Roads		5,015 35
	January Pay Rolls		53,665 00
	Paid for I., B. & W. Ry., Balance Due:		
	Foreign Roads, Tickets	$4,110 69	
	" " Freight	4,016 90	
	" " Mileage	1,037 56	
			9,165 15
	Balance on hand		85,270 10
			$192,883 82

Petition of Receiver.

De Witt Circuit Court, March Term, 1875.

MALCOLM C. TURNER *et al.*
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY *et al.*

George B. Wright, receiver in the above entitled cause, respect-

fully represents to the court that when he assumed possession of the said line of railroad in pursuance of his orders of appointment, made by this honorable court, that he found the rails upon the portion of such road in the State of Indiana very much worn and badly out of repair; that during the past three months the weather has been of such a severe character that the usual winter breakage of the
1364 rails has been very largely increased.

Your petitioner shows that it inevitably results from the bad condition of and the constant breakage of the rails that all trains are subject to constant and expensive detention; that the wear and tear upon the rolling stock is largely increased, and that the line is in constant danger of incurring considerable damages from accidents resulting from passenger or freight trains which may be thrown from the track by reason of such bad state of repairs; that during the past three months the additional expense necessarily incurred by your receiver in the operation of said road from accidents, increased expenses in conducting transportation, additional wear and tear, and unavoidable detentions, all of which can be traced almost directly to the condition of the roadway, has been very large and is constantly increasing.

Your petitioner gives it as his opinion that he will not be able from the current revenue which will come into his hands during the next five or six months to make purchases of rails sufficient to repair the said line of road in Indiana to the extent that its ne-
1365 cessities require, and as it should be repaired in order to enable it to perform its duties to the public and to be operated safely, punctually and economically, and for the best interests of those interested in said property; and your petitioner firmly believes that it will be necessary for the proper protection of the said property and its business, and in order to preserve it in any fit condition to do business, and enable the receiver to retain or increase the present amount of passenger and freight traffic upon the line, to make a large expenditure upon the portion of the line in Indiana, where the bulk of the traffic is handled.

Your petitioner believes that it will be necessary in order to properly administer the trust property in his hands that he should be authorized, as the officer of this court under the decretal order thereof, to purchase a considerable amount, not less, in the judgment of your petitioner, than four or five thousand tons of iron or steel rails, with the necessary splice bars, bolts, ties, etc., for the purpose of repairing the said roadway in Indiana. Your petitioner verily believes that with this expenditure, made under the order of the court, that he can restore the said line of railroad to greater efficiency, can
1366 largely increase its gross and net revenue, improve the security of the bond creditors, and perform all duties owed by the corporation to the public as a carrier, and largely reduce the operating expenses, wear and tear, and extraordinary expenses of the line.

Your petitioner submits herewith the affidavits of certain of the subordinate officers in charge of the operation of said line of road in

support hereof, and prays that the court will duly consider the prayer of this petition, and authorize your petitioner as such receiver, under such directions and conditions as to the court may seem proper, to purchase a sufficient quantity of iron or steel rails, with the necessary splice bars, bolts, ties, etc., to effect the repairs necessary for the proper maintenance of said roadway.

1367 Your receiver further represents unto the court that when he assumed possession of said line of railroad and appurtenances, that there were in use thereupon on the said railway, engines numbering from forty-five to seventy-two, inclusive. Such engines had been in use on the line of the road for about two years, were marked with the name of the railroad company, and has also on each one of them an engraved plate with the following words thereon: "This engine is the property of the Rogers Locomotive and Machine Works of Patterson, N. J.," or words to that effect. As your petitioner is advised, renewals and repairs have been made from time to time upon all of said locomotives at the regular repair shops of this corporation in the same manner as renewals and repairs have been made upon any other engines in the service. Very soon after your petitioner had taken possession of the said line of road, he was formally notified by the Rogers Locomotive and Machine Works of Patterson, New Jersey, that it was the owner of said engines, numbered and described as above, and demanded that your receiver should recognize such ownership and not take possession thereof, or that your receiver would, if his possession was continued, acknowledge ownership of the said Rogers Locomotive and Machine Company, and agree to pay rental upon the said engines from and after the date of said appointment by this court. Your petitioner is advised that the

1368 said Rogers Locomotive and Machine Works were the original constructors of such engines, and sold the same to the Indianapolis, Bloomington and Western Railway Company, either by way of conditional sale, or absolutely, and retained an unrecorded lien upon such personalty, but asserted their ownership of each until paid for, by a written agreement with the president of said Indianapolis, Bloomington & Western Railway Company, (a copy of one of which agreements is hereto attached, marked "A,") and duly notified your receiver of the same. And your petitioner further understands that the commercial paper of said railroad corporation, amounting now with interest to somewhere about four hundred and fifty thousand dollars, was executed by the said railroad corporation to the said machine company to evidence the purchase-money of such engines, and that said paper is either held by said machine company or by some immediate or remote assignee of some or all of such negotiable obligations. A memorandum of said obligations and the payments thereon, as appears on the books of the com-

1369 pany, is hereunto attached marked "B." Your petitioner as such receiver has not consented, because not authorized by his order of appointment to yield up possession of all or any of the engines claimed by said machine company, or to make any agree-

ment recognizing any such claim, or agreement to pay any rent thereof for the use of such engines, without the direct order of this court in the premises. Your petitioner submits the matter to the court and respectfully petitions that the court will enter an order in the premises authorizing the receiver, under the advice of counsel, to make such settlement and adjustment of the matter, either by a surrender or purchase of said engines, as will accord with equity and justice and the best interests of the trust.

Your petitioner further states that in very many instances agents and operatives on the line of road who have been and are in actual service are in pressing need of moneys or some portion thereof which are owed by the said corporation on account of services rendered to it prior to the appointment of the receiver, and that although by the strict terms of the original decretal order appointing your receiver he is limited in making such payments to the surplus funds that
1370 may remain in his hands after making all payments for current expenditures, there are very many cases of individual and peculiar hardship where certain reasonable discretion ought to be lodged in your receiver to make partial payments of such of the old operatives as stand in peculiar and pressing need of all their back pay.

Your receiver believes as a matter of sound policy, and to preserve a proper spirit of loyalty and discipline among the employes of the road, that it will be for the best interests of the property creditors, and all concerned in it, for the court to give some discretionary power to its receiver to make such settlements as above indicated, and he therefore prays that the same may be done.

Your petitioner further shows to the court that when he assumed possession of the road he found in service eleven hundred and seventy (1170) cars which belong to the Western Car Company, a corporation organized under the laws of Delaware, having authority to own and to lease cars; that fifty of said cars are stock cars, and one thousand and twenty are ordinary box cars, and one hundred are coal cars. Your receiver submits herewith copies of the contracts which exist between said Western Car Company and the Indianapolis, Bloomington and Western Railway Company, and under which said cars were put upon the road and used by it up to the time of
1371 the appointment of the receiver; that on the first of July, 1874, before his appointment, the amount of rental specified in said written contract was reduced to fifteen dollars per month per car, and the officers of said Western Car Company advise the receiver that they are willing to accede to a still further reduction. Your receiver finds in his experience of management or control that during the slack business months of the year a large percentage of the cars have been idle on the side tracks of the line, and there are many of the cars your receiver finds to be in a bad state of repair, necessitating constant attention and renewals. In consequence of the diminution of business on the line during the past three months the provisions of these contracts, which compel the railway corporation

to pay a fixed sum irrespective of whether the cars are idle or busy in moving traffic, is very burdensome, and he has informed the officers of the Western Car Company that in his judgment it was for the best interests of the railway corporation that these contracts should either be cancelled or that a very much lower rate should be charged, or that a mere mileage account should be kept, such as is usual in the exchange of cars between connecting roads, or that your
1372 receiver should be authorized under some order of the court to negotiate, if in his judgment it is for the best interests of the corporation, some purchase of such portion of the cars as in his judgment are adequate to answer the business demands of the corporation, and properly and expeditiously handle the traffic that is offered for transportation over the line. Your receiver, for want of direct authority in the premises, has not entered into any particular negotiation with the officers of the Western Car Company thereto; and he therefore prays the court to authorize him to enter into some negotiation, either to cancel or largely diminish the rental of such car contracts, or make some preliminary contract for the purchase of such portion of said cars as may be desirable, and report whatever he may do in the premises to the court for its approval before the same shall become operative.

Your petitioner further represents that since his appointment as receiver there has been brought to his notice a number of claims against the corporation for right of way and depot grounds purchased by the company prior to his appointment; that many of these claims are secured by mortgage or trust deeds, or are held under
1373 bond or contract, the title to the company depending upon payment of the amount specified; that the claims amount in the aggregate to over thirty thousand dollars, and their payment is urgently demanded; and if not paid the property will revert, and the receiver will be greatly embarrassed and great additional expense will be necessarily incurred in securing the titles hereafter.

Your petitioner believes that the best interests of all concerned in the trust will be advanced by the payment of these claims, and respectfully petitions the court for its order and direction in the matter.

GEO. B. WRIGHT, *Receiver.*

Subscribed and sworn to before me this 19th day of March, A. D. 1875.

WM. H. HARRISON, *Clerk,*
By THOMAS W. WHEELER, *Deputy.*

Exhibit "A."

The Indianapolis, Bloomington and Western Railway Company has received from the Rogers Locomotive and Machine Works, at Patterson, New Jersey, one locomotive engine, No. 45, and tender, upon the following conditions:

First. If the said railway company shall fully pay the
1374 following described promissory notes when they respectively become due and payable, viz: One dated March 4th, 1873, at six months, payable at St. Nicholas National Bank, in the city of New York, for three thousand one hundred and six and seventy-five one-hundredth dollars, ($3,106.75,) due September 4th, 1873; and one same date at nine months, payable as above, for three thousand one hundred and fifty-nine and twenty-five one-hundredth dollars, ($3,159.25,) due December 4th, 1873; and one same date at twelve months, payable as above, for three thousand two hundred and eleven and seventy-five one-hundredth dollars, ($3,211.75,) due March 4th, 1874; and one same date at fifteen months, payable as above, for three thousand two hundred and sixty-four and twenty-five one-hundredth dollars, ($3,264.25,) due June 4th, 1874; and one same date at eighteen months, payable as above, for three thousand three hundred and sixteen and seventy-five one-hundredth dollars, ($3,316.75,) due September 4th, 1874; then, and in such case, it is agreed that the said engine and tender shall become and be thereafter the property of said railway company. But in the meantime, and until such payment is made, the said Rogers Locomotive and Machine Works retains the title and ownership thereof.

1375 Second. In case of default in the payment at maturity of said notes, or either of them, the said Rogers Locomotive and Machine Works may, without impairing the validity and effect of said notes, according to their tenor, resume the possession of said engine and tender; and the said company hereby agrees to surrender, return and deliver up the same in good order and condition to the Rogers Locomotive and Machine Works, who may thereafter, if they see fit, sell said engine and tender at public auction, on not less than ten days' notice, (either party being at liberty to become the purchaser at such sale,) and apply the proceeds, pro tanto, to the payment of such of said notes as shall then remain unpaid, rendering the overplus, if any, after discharging all costs and expenses of sale, to the said company, whose liability in case of deficiency shall still continue.

Dated at Urbana, Ill., March 4th, 1873.

In testimony whereof the president of said company, under due authority, has caused the seal of said company to be hereto attached, and has signed his name hereto, officially, the day and year first above written.

Signed: B. E. SMITH, *President.*

1376 *Exhibit "B."*

Unpaid notes of the Indianapolis, Bloomington & Western Railway Company to Rogers Locomotive and Machine Works: The exhibit contains a list of notes of various amounts and divers dates from April 7, 1873, to June 28, 1873, amounting in the aggregate

to $414,902.10, with a list of payments made between March 4th and April 16th, 1873, to said Locomotive and Machine Works, amounting in the aggregate to $21,747.25.

Affidavit of the General Superintendent.

STATE OF INDIANA, } ss.
Marion County, }

John E. Gimperling, of lawful age, being sworn, deposes and says: I am the general superintendent under the receiver of the Indianapolis, Bloomington & Western Railway, and have been acting in the capacity of general superintendent of the road for more than one year past, and am familiar with the condition and wants of said railroad, and have had special charge of the running of trains on said road. During the past three or four months the track of said road within the State of Indiana has been in very bad condition, and especially during the past two months the weather has been of
1377 such severe character that the track has become unsafe and dangerous for the running of trains.

In the month of January last there were 964 rails broken on the line, and in two days in the early part of February 139 rails were broken. Much of the iron on this portion of the road has been down for more than three (3) years, and some of it is of very poor quality. Several miles of the track are laid with the chair rail, and the ends are badly battered and worn, and the track generally in an unsafe and dangerous condition for the running of trains. Many accidents have occurred during the past two months on account of the bad condition of the track, and all trains are subject to constant and expensive detention. The wear and tear upon the rolling stock is largely increased, and the line is in constant danger of incurring heavy damages from accidents to passenger and freight trains, which are liable to be thrown the track by reason of the bad condition of the rails. During the past three months large additional expense has necessarily been incurred in the operation of said road from accidents, increased expense in conducting transportation, additional wear and tear, and unavoidable detention. From his knowl-
1378 edge of the operations and earnings of the road, affiant verily believes that the receiver will not be able from the current revenues which will come into his hands during the next five or six months to make purchase of rails and other material sufficient to repair the said line of road, in the State of Indiana, to the extent that its necessities require, and as it should be repaired in order to enable it to perform its duties to the public, and to be operated safely, punctually and economically, and for the best interest of those interested in said property; and that to put said portion of the line in the State of Indiana in safe and fair condition for handling the traffic, not less than 4,000 or 5,000 tons of iron or steel rails, with the necessary splice bars, bolts, ties, etc., will be required. Affiant believes that with this expenditure the said line of railroad can be restored to good condition, and the gross and net income and reve-

nues will largely increase. Affiant further says that from his own knowledge many of the agents and employes of the road who had been, and now are, in the service are in pressing need of maney due to them from the company prior to the appointment of the receiver; that the present income of the road is barely sufficient to pay
1379 its current operating expenses and ordinary repairs; and that without some provision beyond the net earnings of the road over and above current expenses, the agents and employes cannot be paid for many months. There are very many cases of individual and peculiar hardships among the employes, to whom payment of back dues would be of great benefit and relief, and without which, discipline and good management of the property cannot be secured.

J E. GIMPERLING, *Gen'l Sup't.*

Subscribed and sworn to this the 26th day of February, 1875.

LANE WILLSON,
[SEAL.] *Notary Public.*

Affidavit of the Chief Engineer.

STATE OF INDIANA,
County of Marion, } *ss.*

James B. Alexander, of lawful age, being duly sworn, deposes and says that he is the chief engineer under the receiver of the Indianpolis, Bloomington and Western Railway, and as such has the special charge and oversight of the track, bridges, right of way, etc., of said road. That in the performance of his duties he passes over
1380 the line of said road in the State of Indiana at least once a week, and sometimes oftener, and is fully informed as to the condition of said road. That much of the iron on that portion of the road is badly worn and of poor quality, and the track generally in an unsafe and dangerous condition for the movement of trains over it. That about twelve (12) miles of said track are laid with the chair rail, which is badly worn, and during the past two months the breaking of rails on the track generally has been enormous, averaging over 25 rails per day. That said roadway cannot be put in fair condition for operating without the purchase and putting down of new iron or steel rails, splice bars, bolts, ties, &c. That in the opinion of the affiant, at least five thousand tons of rails of iron or steel will be required in the next three or four months to put said road in fair working condition. During the past two months an extra force of men has been required to patrol the track at night to guard against accidents and give warning to trains of broken rails and dangerous places. Notwithstanding all the care and attention that could be given many accidents have occurred. Affiant is of the opinion that said track cannot be put in good and safe condition for operat-
1381 ing without the purchase and putting down material as aforesaid, and that the same should done as speedily as possible. Affiant further states that there is due from the company to many

of the men under his immediate supervision a large proportion of their pay for four or five months prior to the first of December last. Many of these men are largely in debt, and without the prompt payment of these back-dues good discipline and efficiency of service cannot well be secured.

Affiant further says that the settlement of claims for right of way and depot grounds on said road has been for some time past under his supervision and direction: that many claims to the amount in the aggregate to thirty or forty thousand dollars have been heretofore incurred in the negotiation and purchase of depot grounds and right of way, some of which are secured by mortgage and trust deeds, and others are held under bond and contract, and are now past due, and are urgently pressed for payment, and without their payment, in many instances the property is liable to revert to the original owners, and the receiver or company be put to great expense and inconvenience in securing a good title to said
1382 grounds. JAS. B. ALEXANDER,
Chief Engineer.

Subscribed and sworn to this the 26th day of February, 1875.
LANE WILLSON,
[SEAL.] *Notary Public.*

[Folios 1383 to 1386, inclusive, were erased from original copy.]

1387 Second report of Geo. B. Wright, receiver, filed with the courts September Term, 1875:

REPORT OF RECEIVER.

DEWITT CIRCUIT COURT OF ILLINOIS, } August Term, 1875.

MONTGOMERY CIRCUIT COURT OF INDIANA, } September Term, 1875.

MALCOLM C. TURNER and others
against
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RALWAY COMPANY and others. } Chancery.

The undersigned, receiver of the Indianapolis, Bloomington and Western Railway Company, respectfully reports to the court:

That when the property of the said Indianapolis, Bloomington and Western Railway Company was taken possession of under the decretal order of this court, it was at that time impossible to tell with any degree of certainty the real condition of the property. The ground at that time, and until the first report filed herein, was frozen, and most of the time covered with snow. The line of road appeared to be in a much better condition than it really was. In April and May last, the frost having left, the road became almost impassable, and it was only by using the greatest possible care that

trains, with any degree of safety, could pass over the line. The iron was very much worn and ties badly decayed. Under these circumstances it became absolutely necessary to make every possible exertion to put the road at once in good condition, in order to earn enough to pay operating expenses. With the road-bed in the
1388 state described, motive power and rolling stock in very bad order, many of the locomotives and cars unfit for use, it was impossible to do business at the rates then prevalent, except at a loss. The undersigned therefore turned his attention and exertions to repairs and replacements, so that whatever business should be done could be done at some profit.

Your receiver files herewith (marked Exhibit "A") a statement showing the amount of new and re-rolled iron, bolts, splices, ties, and other materials, together with the cost of the same, that have been placed in the road and been used in construction and repair, since 1st of December, 1874.

During most of the summer, considerable damage has been sustained, and serious delays in the work by reason of continued rains and high waters, the track in many places having been badly washed, and several of the bridges greatly injured or destroyed, so that the operating expenses have been considerably increased. Numerous delays have been occasioned, but no accidents of a very serious character have occurred.

Leased Cars.

As stated in my last report, there was, at the time your receiver took possession of the property, about 1170 cars belonging to the Western Car Company on the road, held by the railway company under a contract of lease with the said Western Car Company, a copy of which contract is herewith filed, marked Exhibit "B." This contract was subsequently modified by mutual agreement between the parties, by a reduction of the rental to $15 per month for each of the cars. These cars were in bad condition, so bad that connecting lines, in many instances, refused to allow many of them to come upon their roads. In obedience to the order of the court at its last term on this subject, several attempts were made by your receiver and the Western Car Company to agree on terms by which these cars, or a portion of them, could be used by your receiver. Being unable in any other manner to agree upon terms, your receiver and the president of the Western Car Company agreed to submit the matter to two disinterested persons, to determine—

1st. The amount of rental to be paid by the receiver to the car company from December 1st, 1874, to the date of the order of court, say April 1st, 1875.

2d. The condition of the stock December 1st, 1874, when the receiver took possession, and what the receiver ought to pay or contribute to put the stock in condition, and the amount already expended being considered.

3d. The number of cars to be retained by the receiver, and the rate of rental from April 1st, 1875, to April 1st, 1876.

It was of vital importance that the matter be adjusted as
1389 speedily as possible, in order that the cars might be put in condition for use, and the decision and award of the two arbitrators was approved and accepted by your receiver and the president of the car company, and immediately submitted to your honors for approval, subject to final confirmation in open court. A copy of said submission and award are herewith filed, Exhibit "C." Your receiver believes that the terms agreed upon for the rent of these cars from December 1st, 1874, to April 1st, 1876, are just and equitable, and that from present appearances and past experience all the cars will soon be needed for use upon the road. Under that impression, and under the terms of the award, your receiver proceeded immediately to contract for the repair of four hundred and twenty-five of said cars at three different establishments off the line of the road, and also took into the shops of the company such number of the cars as could conveniently be repaired there. Up to the present time 462 of these cars have been overhauled and repaired, and contracted to be repaired, at a cost, as nearly as can be ascertained, of $71,302.89. Of the original number (1175) of cars, it was found that five had been destroyed, and have been or are now being rebuilt at a cost of $500 each. A full statement of the expenses incurred in rebuilding and repair of these cars is given in Exhibit "D," filed herewith. It will be observed that the cost of repairs upon these cars far exceeds the estimate made by the master car builder, which was made the basis of the award, and it therefore becomes necessary to ask instructions from the court as to the terms upon which repairs shall be made to the remaining cars, to which, as yet, nothing has been done. No arrangement has yet been made with the Western Car Company for their repair. There is another matter connected with the Western Car Company upon which your receiver wishes some instruction. About the middle of January last it was ascertained that $17,954.75 was in the hands of Geo. Darling, manager of the White Line Company, three-fourths of which had been earned as mileage by cars belonging to the Western Car Company, (leased to the Indianapolis, Bloomington and Western Railway Company, and which had by the last mentioned company been put in the White Line,) and one-fourth by cars belonging to the Indianapolis, Bloomington and Western Railway Company. This money arose from mileage of said cars for the months of September, October and November, 1874. The payment of $16,767.70 of this money had been anticipated by drafts drawn upon Geo. Darling by the Indianapolis, Bloomington and Western Railway Company before the appointment of the undersigned as receiver, and such arrangements were made between the officers of the Indianapolis, Bloomington and Western Railway Company and your receiver, that $7,238.90 of this amount was paid to the Western Car Company, the same being
1390 earnings of said cars for the month of November, and for which your receiver received a credit on rental of cars for that amount. The balance of said amount, being $10,715.85, was used in payment

of the balance of said drafts before mentioned. Your receiver authorized Geo. Darling to pay the whole of such amount over to the Western Car Company, (with the understanding that the same should apply on rental of cars subsequent to December 1, 1874.) As to whether the Western Car Company should give credit for the whole of said amount, and allow the same to apply on the rental of said cars while in use by your receiver, is a question upon which the instruction of the court is requested.

Rogers Locomotives.

In regard to the 28 locomotives claimed by the Rogers Locomotive and Machine Works of Patterson, New Jersey, referred to in the petition of the receiver at the last term of this court, and upon which an order of the court was made, your receiver begs leave to report: That since the last term a suit has been instituted in the United States Circuit Court for the District of Indiana, by the Rogers Locomotive and Machine Works, to recover the possession or payment for said locomotives. It is claimed by the Rogers Locomotive and Machine Works that these locomotives were sold conditionally, as set forth in the petition and Exhibit "A" made by your receiver in his last report. The locomotives are still in possession and use of your receiver, and the suit is being properly defended in said court. The same care and attention has been given to these locomotives as to those of the company, and an accurate account kept of the cost of repairs made upon them at the company's shops since the 1st of December, 1874, which amounts to the sum of $14,974.53 (see Exhibit "F") up to August 1st, 1875.

Peoria and Springfield R. R. Co.

When your receiver took possession of the property, he found in existence a contract of lease between the Indianapolis, Bloomington and Western Railway Company, and the Peoria and Springfield Railroad Company, for that portion of the road and property of the last named company lying between and within the cities of Peoria and Pekin, a copy of which lease, dated April 8th, 1873, is herewith filed, marked Exhibit "E." Believing that it was important that this lease should be maintained, your receiver made certain payments to the amount of $8,685.26 applicable to this rental. On the 15th day of April last, your receiver received written notice from the president of the Peoria and Springfield Railroad Company that the lease had become forfeited by non-payment of rent and failure
1391 to comply with the terms of the lease, and demanded possession of the property, which was refused. Thereupon said company filed a petition asking the surrender of the property and the cancelation of the lease, to which your receiver responded, setting up the facts to the best of his knowledge; which petition and answer are now on file with the court. Upon which such proceedings were had that your receiver, under the direction and approval of the court, entered into a new arrangement of lease, a copy of which is herewith filed, marked Exhibit "G." Shortly after the execution of

this lease, James Haines was appointed receiver of said Peoria and Springfield Railroad Company, and thereafter, on the 27th of May, 1875, your petitioner entered into a temporary arrangement with said receiver Haines for carrying out the terms of said lease until the same should be ratified in open court, as will be seen by Exhibit "H," herewith attached. For the information of the court on this subject, I make the following statement: Taking the business of 1874 as a basis for a comparison between the present contract and the original lease, there appears to be a saving to the Indianapolis, Bloomington and Western Railway Company, or your receiver, of $30,971.07 (see Exhibit "M") per annum. But as the present lease is based upon traffic, it is impossible to determine the actual amount of expense for the future.

Back Pay Rolls and Supply Bills.

At the last term your receiver reported amount of indebtedness for labor, supplies, taxes and balances due other roads. The earnings of the road have been so light that only a small surplus has been acquired applicable to these claims. The amount paid on all of these since December 1st, 1874, and up to August 1st, 1875, is $39,723.07, and will be found in the detail of monthly receipts and disbursements as reported at last term, and herewith in schedule Exhibit "L." It is hoped the earnings of the road will so far increase in the future, that this class of claims may be provided for at an early day. The importance of their payment is appreciated by a large number of bondholders, and it is hoped that, for the best interest of all creditors, a reasonable degree of patience may be exercised until the earnings shall so far increase as to meet this indebtedness, as well as resume payment of interest upon the bonded debt.

Taxes.

1392 The State, county, and other taxes in the State of Illinois for the years 1873 and 1874, as reported at the last term in schedule "D," still remain unpaid. Against the collection of the taxes of 1873, the injunction granted by the United States Circuit Court for the Northern District of Illinois still stands, and for the taxes of 1874 an injunction was applied for in the same court, and granted as to the tax on capital stock and franchises of the company; but as to the balance of taxes, the question is now pending and is held under advisement by said court. Cases involving similar questions have been appealed to the Supreme Court of the United States, and your receiver is informed by counsel that the injunction granted as to the collection of taxes claimed to be due from the Indianapolis, Bloomington and Western Railway Company, will remain in force until cases appealed to the Supreme Court of the United States shall be decided by that tribunal. The current taxes in the State of Indiana have been paid as the same have fallen due.

Earnings.

The gross earnings of the road for each month from December

1st, 1874, to July 1st, 1875, are given in schedule Exhibit "K," and amount in the aggregate to $720,264.61.

The receipts and disbursements for the months of March, April, May, June, and July are also given in schedule Exhibit "L," hereto attached and made part of this report.

Receiver's Certificates.

In obedience to the order of the court, your receiver has issued and arranged for the issue of the following certificates of indebtedness, bearing seven per cent. interest from their respective dates, and made payable at different dates, running 6, 12, 18 and 20 months:

For the purchase of steel and iron rails.....	$159,000
For the purchase of splice bars, bolts and spikes.....	11,000
For the settlement of right of way and depot grounds, and to prevent the forfeiture of title thereto.....	35,000
Total issue of certificates provided for.....	$205,000

These certificates have been and will be issued in strict accordance with the orders of the court.

Future Prospects.

Notwithstanding the interruption and delays caused by the continued and powerful rain storms of the past four months, the road is at present in a safe condition and is daily improving, and when the material now provided is all put down, and the cars and other equipment now undergoing repairs are put in order, the road can be operated at a reasonable expense.

The prospects for the coming year are exceedingly flattering.
1393 The crops for the most part along the lines were never better, and to move the surplus will undoubtedly require all the motive power and rolling stock now in the possession of your receiver. The gross earnings will be very largely increased, while the operating expenses will be less than they have been; but in order to work the road in the most economical manner, the present maximum grades should be reduced. This would involve an expenditure of about $350,000.

All of which is respectfully submitted.

GEO. B. WRIGHT,
Receiver.

EXHIBITS.

Exhibit C.—Submission and Award of Arbitrators.

We, the undersigned, mutually agree to submit to James B. Hodgskin and Robert Harris, as arbitrators, the following questions between us, and in case they cannot agree, Hon. Reuben Hitchcock, of Painsville, Ohio, to be called as umpire, and his decision to be final:

1st. The amount of rental to be paid by the receiver to the car

company, from December 1st, 1874, to the date of the order of court, say April 1st, 1875.

2d. The condition of the stock December 1st, 1874, when the receiver took possession, and what the receiver ought to pay or contribute to put the stock in condition, and the amount already expended being considered.

3d. The number of cars to be retained by the receiver, and the rate of rental from April 1st, 1875, to April 1st, 1876.

The correspondence and statements of the parties to be submitted with reports of condition of cars; the award to be accepted by us, and the court asked to approve and confirm the same; the compensation to the arbitrators and their expenses to be paid by each party equally.

THE WESTERN CAR COMPANY,
By F. LOVEJOY, *President.*

GEO. B. WRIGHT,
Receiver Indianapolis, Bloomington & Western R'y Co.

INDIANAPOLIS, IND., June 3d, 1875.

The undersigned, appointed arbitrators in the matters in dispute between the Indianapolis, Bloomington and Western Railway, by Geo. B. Wright, its receiver, and the Western Car Company, by virtue of an agreement between the parties annexed hereto,
1394 having at length heard the parties, and examined the contracts, correspondence and accounts between them, as well as the respective orders of the court heretofore given in relation thereto, do believe that the respective rights and obligations of the said parties in the matters pending between them are, and they do therefore find and decide, as follows:

1st. That there was due to the Western Car Company from the Indianapolis, Bloomington and Western Railway Company on the first day of December, 1874, under the arrangements existing between them, for rent of cars used by the former prior to that date, the sum of $82,727.65, being for balance of rentals accruing from July 1st, 1874, to December 1st, 1874.

2d. That the repairs upon the cars so used by the Indianapolis, Bloomington and Western Railway Company, required on said first day of December, 1874, in order to put the said cars in the proper condition of repair to maintain them in use, and to run them in the service of the railway company or of the receiver, according to the estimate of the master car builder of the receiver, and including the cost of replacing five cars destroyed, amounting to $53,600, which sum the Indianapolis, Bloomington and Western Railway should have employed, and was bound by the laws of good railway management to employ in making the said repairs and replacements; and that of this sum of $53,600 the sum of $34,733 was incurred and should have been expended prior to July 1st, 1874, and the sum of $18,867 was incurred and should have been expended after that date.

3d. That the amount of $82,727.65 for rental, and of $53,600 for repairs and replacements, being properly and rightfully due to the Western Car Company, should be paid by the receiver under, and in the manner, and at the times specified by the order of the court appointing him such receiver, as a part of the supplies and operating expenses ordered by said court to be paid by him, the said receiver, although a part of the said sum due for repairs and replacements was, as before stated, incurred or should have been expended prior to July 1st, 1874, the date named by the court as the one subsequent to which all supply and expense bills should be paid.

4th. That it is necessary for the economical and profitable management of the business of the receiver that the said repairs and replacements should be made at as early a date as possible, and, if practicable, prior to the time when the ordinary fall business of the railway may be reasonably expected to commence, to wit, on or about 1st of September next, on or about which time it may be reasonably expected all of the cars heretofore leased to the railway company will be required by the receiver.

1395 5th. That the receiver shall make the above repairs and replacements at his convenience as to time and place, but shall complete the same, if practicable, prior to the 1st of September next; and that for the purpose of paying for the said repairs and replacements, the receiver shall be authorized to retain out of the rentals accrued, or hereafter to accrue and become payable to the Western Car Company as hereinafter provided for, the sums expended by him monthly for such repairs and replacements until completed, or until the total sums so expended shall reach the total sum required as above set forth, to wit, $53,600; but that the sums so to be retained by him monthly shall not exceed the sum of $8,000 per month for the months of December, 1874, January, February, and March, 1875, nor exceed the sum of $4,320 per month for the months of April, May, June, July, and August; and thereafter the receiver shall keep the cars in the same serviceable good order as that in which the expenditure of the above sum of $53,600 shall place them.

6th. That it is found impossible, with a due regard to the interests of both parties, to arrange any plan under which the number of cars in use by the receiver can be temporarily reduced during the dull summer season, and yet the receiver retain the privilege of calling for the whole number, should he need them, as he expects; and that it is equitable, in lieu thereof, to proportionately reduce the rental on the whole number of cars for the period in question, and we therefore find that the receiver shall pay to the Western Car Company rental at the rate of $10 per car per month on 1170 cars, for the months of December, 1874, January, February, and March, 1875, and at the rate of $6 per car per month on 1170 cars for the months of April, May, June, July, and August, 1875, (the latter being the period during which an important portion of the cars will be standing idle or undergoing repairs,) and at the rate of $10 per month per car on 1175 cars for each succeeding month thereafter until the first day

of April, 1876, when the parties shall, if they so elect, make a further agreement on such terms as to them may seem equitable.

7th. That all sums of money herein found due and payable by the receiver to the Western Car Company, accruing prior to the first day of April, 1875, shall be paid by the receiver in cash, or in such receiver's certificates or other obligations as the court may authorize and order him to create and issue for the payment of any or all other kinds of supplies or operating expenses, and that all sums of money herein found due or to become due accruing after the first day of April, 1875, shall be paid in cash, so far as the receipts of the receiver from operating the road will allow, and pro rata with all other supplies and operating expenses, and any balances of such sums
1396 of money not paid in cash, owing to insufficiency of the receiver's operating receipts, shall be paid monthly in receiver's certificates or other obligations authorized and ordered by the court.

(Signed) JAMES B. HODGSKIN.
(Signed) ROBERT HARRIS.

INDIANAPOLIS, June 3d, 1875.

We hereby accept the foregoing award, and respectfully ask the court to ratify and confirm the same, and give to the receiver the necessary authority to carry the same into effect.

(Signed) THE WESTERN CAR COMPANY,
By F. LOVEJOY, *President.*
(Signed) GEO. B. WRIGHT,
Receiver Indianapolis, Bloomington & Western R'y Co.

LINCOLN, June 4th, 1875.
AT CHAMBERS.

This contract is approved by me, subject to final ratification in open court, to be holden in DeWitt county, in August next.

(Signed) LYMAN LACEY,
Judge 17th Judicial Circuit, State of Illinois.

ROCKVILLE, IND., June 5th, 1875.

This contract is approved by me, subject to final ratification in open court, to be held in Montgomery county, Indiana, in September next.

(Signed) ALBERT D. THOMAS,
Judge 22d Judicial Circuit of the State of Indiana.

NOTE.—The court having ordered this report printed subsequent to the order requiring the printing of the annual report, and as the following exhibits appear fully in said annual report, upon the pages and under the heads indicated, the receiver regards a mere reference to the same sufficient. Exhibit A, Annual Report, page 25, Exhibit F; Exhibit K, Annual Report, page 23, Exhibit B; Exhibit L, Annual Report, pages 26, 27, and 28, Exhibit H.

Exhibits F, E, G, H, and M, omitted in printed report, the same being deemed unimportant.

Third Report of George B. Wright, Receiver, filed with the court on the 7th December, 1875:

1397 *Receiver's Report for the Year ending Nov.* 30, 1875.

Montgomery Circuit Court of Indiana, November Term, 1875.

DeWitt Circuit Court of Illinois, December Term, 1875.

MALCOLM C. TURNER and others
against
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY and others. } Chancery.

The undersigned, receiver of the Indianapolis, Bloomington and Western Railway Company, respectfully reports to the court:

That since the filing of his last report herein the weather has been remarkably good for improvements upon the track, and every exertion has been made to put the road and equipment in condition for the winter business. The property is now in such condition that the traffic can be handled with promptness, and much greater economy than one year ago. The autumn has been so mild and pleasant that the large corn harvest on the line has been postponed, but
1398 it is believed that the entire equipment now on the road will all be needed, and if reasonable freight rates can be obtained, that the income of the property may be largely increased during the next six months.

Leased Cars.

Immediately after the order of the court at its last term, relative to the lease of the cars of the Western Car Company, negotiations were opened with the officers of that company and with other companies for the procurement of cars. After diligent inquiry and negotiations, your receiver entered into a new contract with said Western Car Company for the use of cars then remaining on the road for the period of one year from the first of September, 1875, at a monthly rental of ten dollars per car. The terms of said agreement are as favorable as could be obtained, and in some respects better than could be made with other parties having cars for rent. I submit herewith a copy of the contract made with said Western Car Company, marked Exhibit "A." Your receiver respectfully represents that while the contract aforesaid may be as good as can be obtained from any company having cars to rent, yet he is convinced that the true policy for every company is to purchase and own its entire equipment, and he begs leave to suggest that inasmuch as this contract of lease is only for one year, that authority be given him to open negotiations
1399 and solicit propositions for the purchase of an equal number of cars, or so many as may be necessary for the business of the

road, on monthly payments, to commence on delivery after September, 1876, when the present contract expires, and report to the court the terms upon which they can be obtained, for the consideration and action of the court at a future term. Your receiver believes that the requisite number of cars can be purchased upon monthly payments but little, if any, in excess of the present rental.

[Folios 1400 to 1402, both inclusive, were erased in original copy.]

Earnings and Expenses.

1403 Schedule "B," herewith filed, contains a detailed statement of the earnings and expenses for each month, from December 1st, 1874, to November 30th, 1875, the month of November being approximated.

Schedule "C" contains a comparative statement of gross earnings and expenses for the two years ending November 30th, 1874, and 1875. For the year ending November, 1875, all expenses for renewals, extraordinary repairs, and right of way payments are included, and amount in the aggregate to $430,878.59, as shown in Schedule "B."

Schedule "D" is a balance sheet of receiver's general ledger for eleven months ending November 1st, 1875. It is not possible to give the balance sheet for the full year, as vouchers and returns from foreign roads for the month of November are not in.

Schedule "E" is a balance sheet of mileage for eleven months ending November 1st, 1875, showing amount charged and credited to foreign companies for mileage of all cars.

Schedule "F" is a statement of extraordinary repairs and renewals of track, bridges, buildings, and rolling stock. The cost of
1404 the same is shown in the detailed statement of earnings and expenses—Schedule "B."

Schedule "G" is a statement of the monthly deliveries of old iron taken from the track and delivered to the Indianapolis Rolling Mill Company, from December 1st, 1874, to November 30th, 1875, in exchange for new or re-rolled iron, or sold for cash. No old iron has been disposed of to any other parties.

Receipts and Disbursements.

Schedule "H" is a detailed statement of monthly receipts and disbursements for the year ending November 30th, 1875:

Total receipts	$1,475,319 07
Total disbursements	1,403,064 30
Balance on hand	$72,254 77

It will be noticed that the balance on hand at the end of each month is nearly all consumed by the 15th or 20th of the succeeding month in payment of pay-rolls and current bills which fall due at that time.

It will be seen by reference to Schedule "B" that the actual operating expenses of both main line and extension for the year are $119,150.01 less than the earnings.

Improvements.

1405 The extraordinary repairs, renewals, and additions to the property specified in Schedule "B" consist of the following:

Rebuilding 7 locomotives.

Extraordinary repairs to 18 locomotives, cost nearly as much as rebuilt engines.

Building 2 chair cars.

Rebuilding 3 coaches.

Repainting and refitting 5 coaches.

Repainting and refitting 3 baggage cars.

Building 4 cabooses.

Building 6 stock yards.

Rebuilding 475 freight cars.

Changing 34 platform cars to gravel cars.

Constructing 2¾ miles new siding.

Laying 64 miles iron and steel rails.

Laying 146,000 cross-ties.

Graveling 24 miles of track.

Building new boiler shop and store-room at Urbana.

Rebuilding entirely 13 bridges.

Building 3 station houses.

Right of way.

Needed Improvements.

The following is an estimate of the extraordinary repairs, renewals, and additions which should be made the coming year, to put the property in the best possible condition:

48 miles steel rails—4600 tons, less old iron		$200,000
120,000 cross ties		48,000
Splice bars, bolts, and spikes		25,000
Gravel		5,000
1406 Timber and labor for repairing bridges, cattle-guards and fencing		27,000
One truss-bridge for Middle Fork		3,000
Frogs, switches, &c		5,000
Round-house, 10 stalls, at Urbana		10,000
Wood shop and machinery at Urbana		10,000
Round-house, 4 stalls, at Havana		4,000
Station buildings, platforms, stock-yards and 2 water tanks.		9,000
Fencing on main line	168 miles.	
Fencing on extension	136 "	
Fencing on branch	56 "	
	360	172,800
Total.		$518,800

Detailed Statements.

Upon the filing of your receiver's report at the last term, some exceptions were made to the same—that the report and schedules

did not contain a more full and detailed statement of earnings, as well as receipts and disbursements. Your receiver presuming that the usual course would be adopted of referring each of his reports to a master for critical examination of each item with all the vouchers, did not deem it necessary to incumber the court files with the multitude of vouchers and pay-rolls involving the management of so large and important an interest, and hence only filed abstracts, trusting to the examination by a commissioner who could advise the court
1407 fully as to the character and, if need be, the propriety of each and every disbursement. Your receiver begs leave to suggest that such a such a reference be still made, and he be allowed to retain the pay-rolls and vouchers in the archives of the company, especially as reference must be made to them from time to time hereafter, and great inconvenience will be experienced if the same are permanently removed. But your receiver respectfully presents herewith a full and detailed statement of earnings for each month since he took possession of the property, and also a full and detailed statement of receipts and disbursements for each month, with the vouchers and abstract of pay-rolls to support the same, and respectfully requests that they be referred to a master for examination, and report upon the same to this court.

Back Pay Rolls and Supply Bills.

Although authorized under the orders of the court at the time of his appointment to apply any surplus earnings of the road after payment of current operating expenses, necessary repairs, taxes, &c., to the payment of back-pay due to employes and for supplies furnished the company, your receiver has only been able to apply a very small proportion of the earnings in that direction. Schedule "H"
1408 herewith filed will show the amount paid on this class of claims, nearly all of which was paid in the month of December, 1874, at which time it was deemed absolutely necessary for the protection of the property, and assurance was given and confidence expressed by the officers and agents of the company that the earnings would be sufficient to appropriate a considerable amount out of the earnings each month towards the extinguishment of this indebtedness. But it was soon discovered that the earnings were insufficient to operate the road and make such improvements as were necessary for the protection of the property and its economical management. It was found absolutely necessary to apply to the court for authority to borrow money in anticipation of earnings in order to put the road and equipment in safe condition to be operated. For nearly five months after your receiver's appointment, scarcely a train could be got over the road without derailment and many times serious damages. Authority was obtained from the court to purchase only three thousand tons of steel or iron rail, with the necessary bolts and splice bars, but not until after purchases had been made for over $50,000 worth of steel rails and other material which had to be paid for out of current receipts. From December, 1874,

to November, 1875, the earnings of the road have been each
1409 month below the earnings of corresponding months of the previous year, while the expenditures were necessarily large in order to put the property in condition to earn money whenever business should revive. The falling off in earnings is attributable, as I believe, to the bad condition of the property, the almost total failure of the crops along the line of the road for the two years previous, and to the general depression of business throughout the country. We have probably not suffered more in this respect than other roads similarly situated.

Such had been and was the credit of the company and the condition of the property at the time your receiver took possession, that nothing could be purchased without the most positive assurance of prompt payment out of the earnings, and any diversion of the earnings to the prejudice or delay in payment of current bills and payrolls would have compelled the suspension of the necessary improvements, and left the property in a condition that it could not be operated advantageously or profitably. Much complaint has been made and great solicitude felt in regard to the back pay due employes; and your receiver has experienced great embarrassment on account of his inability to meet it under the orders of the court, but he is convinced that any attempt to pay more than he has done would have been a violation of the orders of court, and directly to the prejudice of future earnings and ultimate payment of this
1410 and other just and equitable claims in full, which he hopes and believes can soon be reached, at least in part, through the improved condition of the property and the good promise of increased earnings in the future. It has been intimated that more has been done in the direction of improvements to the property than was absolutely necessary. Whoever has entertained such an opinion proves himself ignorant of the real condition of the property, and I respectfully refer to the sworn statements contained in my first report in this case, and to the needed improvements and repairs upon the property specified under that head in this report. In the loan authorized by the court, nothing was allowed for ties and other material needed for repairs to the road, bridges, machinery and cars, and nothing for extra labor required, which could not be procured without money. Many improvements much needed, and for which a great pressure has been made, have been entirely omitted for want of means to make them. No fences or cattle guards have been built, notwithstanding the laws on this subject are very imperative; and many of the land-owners along the line have been greatly in need of them. Some of them have generously offered to build the fences and wait a reasonable time for payment; others have built, and are insisting upon payment under the law. One important station house has been built, with the necessary side tracks and cattle pens, at a cost of over two thousand dollars, as a donation to
1411 the company, with five acres of land. Many switches and side tracks have also been put in, partly or entirely, at the

cost of parties needing them. No improvements have been made that were not absolutely necessary to the profitable and economical management of the property; and, indeed, many more will be required before the property can be most profitably and advantageously conducted. With the fullest appreciation of the pressing nature of the indebtedness to employes and others, and the strongest sympathy for many who are in the greatest need, I feel assured that the policy adopted by your receiver in the management of the property was the only true one for the interest of all creditors, and that all has been done that earnings or orders of the court would allow. It should not be forgotten that in many instances bondholders and other creditors are as great sufferers as employes. Notwithstanding the anxiety and solicitude of the agents and employes for the payment of back dues, I desire to bear testimony to their general forbearance and faithful exertions to increase the earnings, and in every way aid in the proper administration of the trust. They are entitled to and receive my hearty thanks for their co-operation.

OUTSTANDING LIABILITIES OF THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY CO., ON DECEMBER 1, 1874.

1412 *Introduction.*

Prior to the year 1869, there existed a corporation known as the Indianapolis, Crawfordsville and Danville Railroad Company of the State of Indiana, whose road extended from Indianapolis westwardly to the eastern line of the State of Illinois, at a point near Covington, a distance of about 80 miles. This company executed a mortgage on its road and property to secure bonds to the amount of $1,500,000. At the same time there existed a corporation of the State of Illinois known as the Danville, Urbana, Bloomington and Pekin Railroad Company, whose road extended from Pekin, Illinois, eastwardly to a point on the State line, where it joined with the Indianapolis, Crawfordsville and Danville Railroad, a distance of about 122 3-10 miles. This company also executed a mortgage on its road and property to secure bonds to the amount of $2,000,000. This mortgage bears date April 1, 1869, and secures 2,000 bonds of $1,000 each, and the interest thereon at 7 per cent. gold, payable semi-annually on October 1, and April 1; principal payable in 40 years after date.

On the 12th day of July, 1869, the two corporations above named were duly consolidated into a new corporation, called the Indianapolis, Bloomington and Western Railway Company, and on the 1st day of October, 1869, for the purpose of retiring the bonds of the two companies first named, and for the purchase of equip-
1415 ment, machinery, etc., the consolidated Indianapolis, Bloomington and Western Railway Company executed a mortgage upon its entire road and property between Indianapolis, Indiana, and Pekin, Illinois, a distance of about 202 2-10 miles, to secure 5,000 bonds of $1,000 each ($5,000,000), with semi-annual interest at 7 per cent. gold, payable on April 1st and

October 1st of each year; principal payable October 1, 1909. As contemplated by this mortgage the $1,500,000 of the bonds of the Indianapolis, Crawfordsville and Danville Railroad Company were exchanged and taken up and cancelled, and the bonds of the new company given in place of them. But the $2,000,000 of bonds of the Danville, Urbana, Bloomington and Pekin Railroad have never been taken up or exchanged, but are now out in circulation, and the $2,000,000 set aside for such exchange and to take the place of the $2,000,000 Danville, Urbana, Bloomington and Pekin Railroad are held by the Farmers' Loan and Trust Company of New York, in trust.

On the 1st day of October, 1870, the Indianapolis, Bloomington and Western Railway Company executed a second mortgage
1416 on its entire road and property between Indianapolis and Pekin to secure 1500 bonds of $1,000 each (1,500,000) and the interest thereon at 8 per cent., currency, payable semi-annually on July 1st and January 1st of each year; principal payable October 1st, 1890.

Some time prior to January 28th, 1872, there existed a corporation of the State of Illinois called the Havana, Mason City, Lincoln and Eastern Railway Co., which was formed by consolidation of a company of the same name with a corporation known as the Monticello Railroad Company, also of the State of Illinois. This company had a charter, and were constructing a railroad from Decatur to Champaigne, through Clinton, Lincoln, Mason City and Havana, westwardly to a point on the Mississippi River. On the 28th day of June, 1872, the said Havana, Mason City, Lincoln and Eastern Railway Company sold and conveyed its road, franchises, etc., to the Indianapolis, Bloomington and Western Railway Company, and on the 28th day of June, 1872, the said Indianapolis, Bloomington and Western Railway Company did execute a certain other mortgage to secure 5500 bonds of $1,000 each, ($5,500,0000,) with the interest thereon at the rate of 7 per cent. in gold, payable semi-annually on January 1st and July 1st of each year; principal payable July 1, 1912. These bonds are
1417 known as the first mortgage extension bonds, and the mortgage for their security is upon the above named and described lines, acquired by purchase, the estimated length of the lines as contemplated being about 215 miles. Only that portion of the line between Champaigne and Havana, 100 5-10 miles, and the Decatur Branch from White Heath to Decatur, 30 3-10 miles (total, 130 3-10 miles), are built and in operation. The balance of the line from Havana, Illinois, to the Mississippi River, estimated about 83 7-10 miles, has very little work done upon it.

Recapitulation.

First mortgage D. U. B. & P. R. R. bonds	$2,000,000
First mortgage I. B. & W. R'y bonds	$3,000,000
Second mortgage I. B. & W. R'y bonds	$1,500,000
First mortgage I. B. & W. R'y extension bonds	$5,500,000
Total	$12,000,000

Of the $5,500,000 extension bonds, $3,285,000 only have been sold; $2,215,000 are hypothecated upon the floating debt.

Defaulted Coupons October 1, 1874.

On D. U. B. & P. R. R. bonds	$70,000	gold.
On I. B. & W. R'y first bonds	$105,000	"
On I. B. & W. R'y second bonds (Jan. 1, 1875,)	$120,000	c'cy.
On extension first bonds (Jan. 1, 1875)	$224,280	gold.
	$519,280	

Capital Stock.

The stock was originally issued to the various stockholders of the several companies forming the Indianapolis, Bloomington and Western Railway Company, (either by consolidation or purchase,) and the agreements made with those companies as follows:

Danville, Urbana, Bloomington and Pekin Railroad	28,292 shares.
Indianapolis, Crawfordsville and Danville Railroad	20,000 "
Havana, Mason City, Lincoln and Eastern Railway	17,778 "
Monticello Railroad Company	7,287 "
Issued by Indianapolis, Bloomington & Western R'y Co.	
Total	76,102 shares.

There remains yet to be exchanged stock to the amount of $46,350.00.

1419 *Floating Debt.*

Balance due railroads	$20,570 72
Taxes	154,173 52
Pay rolls	281,719 09
Vouchers	94,503 61
1420 Bills payable	1,832,853 61
General ledger accounts	1,213,394 59
Total	$3,597,220 14

The floating debt will reduced by whatever amount may be realized on sale of the $2,215,000 bonds hypothecated or by payments made by the receiver under orders of the court.

Totals.

Capital stock	$7,610,200 00
Bonded debt	12,000,000 00
Floating debt	3,597,220 14
Past-due coupon interest	519,280 00
Grand total	$23,726,700 14

The total liabilities may be increased by interest and any outstanding claims against the company not yet adjusted.

The following payments have been made on the floating debt of

the company existing on the 1st of December, 1874, under the previous orders of the court:

On balance due foreign roads	$15,360 01
On miscellaneous accounts	1,269 91
On pay rolls	30,080 38
On taxes	5,441 83
Total	$52,152 13

1421 The details of which, with the vouchers, are shown in schedule "H."

The following certificates have been issued since by the receiver for the purchase of rails and other material, and for settlement of right of way and land claims under the previous orders of the court, with the months in which the same became payable:

December, 1875	$23,000
January, 1876	15,700
February, "	8,000
March, "	28,000
April, "	5,000
May, "	5,000
June, "	28,000
July, "	9,500
August, "	3,500
September, "	23,000
December, "	23,000
January, 1877	8,000
February, "	500
March, "	23,000
Total	$203,200

The following property came into the hands of the receiver on December 1st, 1874.

Track.

	Main track, Indianapolis to Pekin	202 3-10	miles.
1422	Side track, Indianapolis to Pekin	28 1-10	"
	Extension main track, Champaign to Havana	100 7-10	"
	Extension side track, Champaign to Havana	6 5-10	"
	Decatur Branch, main track, White Heath to Decatur	30 9-10	"
	Decatur Branch, side track, White Heath to Decatur	1 7-10	"
	Total	370 2-00	miles.

Leased Line.

Peoria and Springfield R. R., Pekin to Peoria main track	9 2-10	miles.
Peoria and Springfield R. R., Pekin to Peoria side track	3	miles.
Total	12 2-10	miles.
Total miles of track	382 4-10	miles.

Equipment.

Passenger coaches	27
Baggage, express and mail cars	5
Baggage and express cars	5
Baggage and smoker's cars	3
Postal cars	2
Freight cars, box	220
Freight cars, stock	117
Coal cars	171
Flat cars	104
Caboose cars	52
Boarding cars	3
Hand and push cars	118
Derrick and ditching cars	2
Steam shovel	1

1423 *Locomotive Engines.*

Nos. 1 to 44, inclusive (except No. 27, in possession of Peoria and Rock Island Railway Company, title to which in dispute.) 44.

Nos. 45 to 72, inclusive, (claimed by the Rogers Locomotive and Machine Works of Patterson, N. J.) 28.

No. 6, marked P. and R. I., held in place of engine No. 27, above referred to, until question of title is determined.

For inventor of buildings, machinery in shops, tools, and material on hand, see report of receiver of March 19, 1875.

Miscellaneous Matters.

Your receiver desires to present the following matters for the consideration of the court, and requests the instruction and order of the court in regard tothe same:

First. In regard to the order for payment of back pay-rolls and supply bills. By the terms of the original decretal order your receiver was authorized to pay out of any surplus earnings in his hands, after payment of current operating expenses, taxes, et cetera, claims due to operatives and for supplies furnished the company subsequent to July 1, 1874. It is found that there is due
1424 on these claims, prior to July 1, 1874, to operatives $31,402.10, and for supplies $31,015.51. Your receiver is informed that when this order was entered it was believed that there were none of this class of claims due prior to July 1, 1874. As a

matter of equity and convenience of payment your receiver suggests that the order be modified so that when he shall be in condition to pay these claims those prior to July 1, 1874, may be put upon the same footing with those subsequent, and that he be authorized to commence payment of the oldest claims first, paying them off in full in the order of months, or that he be authorized to make dividends upon the whole amount of back pay and supply bills, according to the order specified in the first order of the court herein.

2d. In settling claims for right of way and land for depot purposes, etc., under the former order of the court, your receiver has found a number of cases which do not come strictly within the former order authorizing payment "when the property was held by mortgage or trust deed, for the title depending upon payment." There are several cases where deeds have been given for right of way, or for lands need for the railroad, for which notes of the company
1425 have been given, but no payments, or only partial payments, have been made. In these cases the vendors claim payment in full under the vendor's lien-law, and in some cases are asserting their rights under the law. There are also other claims for right of way along the line of road occupied and used by the road to which the company has no title. The owners of these lands have been pressing payment of their claims, and in some cases the claims are in the hands of attorneys for collection. Were your receiver vested with authority to settle such claims according to his best judgment, he believes most of them could be adjusted on equitable terms, and to the advantage of the trust, and respectfully asks an order of the court upon the subject.

[Folios 1426 to 1429, both inclusive, were erased in original copy.]

7th. Henry Taylor, who built the round-house and other
1430 buildings of the company at Indianola, prior to the appointment of your receiver, had put a mechanic's lien upon said buildings and grounds, and upon the last day allowed for that purpose under the statutes of the State of Indiana, filed his complaint in the Superior Court of Marion county, Indiana, for the foreclosure of said lien. A judgment was entered in said court in favor of said Taylor, for the amount of his said claim, being the sum of $263. At the request of your receiver, no copy of said lien has been issued, or any proceedings had for the sale of property under said mechanic's lien. The claim is still due and unpaid, and your receiver asks instructions from the court, and an order directing him as to the settlement of said claim.

1431 All of which is submitted.

GEORGE B. WRIGHT, *Receiver.*

DECEMBER 6, 1875.

Subscribed and sworn to before me this 7th day of December, A. D. 1875. WM. H. HARRISON, *Clerk.*

AGREEMENT BETWEEN THE WESTERN CAR COMPANY AND GEORGE B. WRIGHT, RECEIVER.

This agreement, made and entered into by and between the Western Car Company, a corporation existing by and under the laws of the State of Delaware, of the first part, and George B.
1432 Wright, receiver of the Indianapolis, Bloomington and Western Railway Company of the second part—

Witnesseth, that the party of the first part, for and in consideration of the premises, covenants and conditions hereinafter named, contracts and agrees to and with the party of the second part to hire, and does hereby hire to the said party of the second part, to be used on the Indianapolis, Bloomington and Western Railway in the regular transportation business of said railway on the line of said railway and its connecting roads, eleven hundred and seventy (1170) freight cars, being the same now in possession of the said party of the second part, said rental to commence on the first day September, A. D. 1875, and to end on the 31st day of August, A. D. 1876, which said cars so hired as aforesaid are numbered, marked and designated in the schedule hereto attached marked "A," and made a part of this agreement, and in the receipts given for the same by the party of the second part.

And the said party of the second part hereby covenants and agrees to and with the said party of the first part to pay for the use of said cars as rental therefor the sum of ten (10) dollars per month for each and every one of said cars, said rental to be paid
1433 monthly on or before the 15th day of the suceeeding month, which payment shall be made to the president or treasurer of the party of the first part, or to such agent of said first party as the president of the party of the first part shall designate in writing. Said party of the second part also contracts and agrees to make such current monthly repairs as will keep and maintain said cars in as good serviceable condition as the same were on the 1st day of September, A. D. 1875, and to return the said cars to the said party of the first part at the end of this time in like good serviceable condition as they were in on September 1st, 1875, as determined by the board of inspection hereinafter mentioned and provided for, except as hereinafter expressly provided.

That for determining the condition and value of said cars on the first day of September, 1875, as well as other questions that may arise in connection with the execution of this contract, so far as the same are submitted to them by the terms of this contract, the master mechanic under the said party of the second part and the agent of the party of the first part are mutually agreed upon by the parties hereto as a board of inspection, and in case of disagreement the said board are authorized to select an umpire, and the decision of
1434 the majority of said board on all questions referred to it by this agreement shall be binding on both parties hereto. Said board of inspection shall immediately proceed to ascertain and de-

termine the condition of all the said cars embraced in the schedule hereto attached, as the same were on the 1st day of September, 1875, and make their report in writing, which said report shall be and become a part of this contract; and said board of inspection shall from month to month determine what current monthly repairs are needed upon each and every one of said cars. In case any dispute arises regarding current monthly repairs, which said current monthly repairs when so determined by said board of inspection shall be immediately made by and at the expense of the said party of the second part.

The said board of inspection shall also determine from month to month what betterments, if any, should be made on each and every of said cars, and upon the decision of said board of inspection being delivered in writing to the party of the first part, the said party of the first part shall have the option either to withdraw said car or cars upon which betterments are determined to be necessary from the use of said party of the second part, and drop the same from the rent roll, or to authorize the said party of the second part
1435 to make such betterments at the expense of said party of the first part. But if the car or cars are withdrawn the rental thereon shall cease from the time they are so withdrawn, which withdrawal shall not in any manner effect this contract or be deemed a breach thereof as to the remaining cars. Said board of inspection shall also determine the condition of said cars at the end of this term, and if the same shall be found not in as good serviceable condition as by the terms of this contract the said party of the second part is bound to keep and maintain them, the said board of inspection shall determine the amount necessary to place them in such condition, which sum the said party of the second part may expend upon said car or cars or pay to said party of the first, at the option of the said party of the first part.

Said party of the second part further contracts and agrees, as one of the conditions of this rental, that in case any of said cars shall be destroyed or so disabled by accident or otherwise as to be unfit for safe and proper use at any time during the existence of this contract, the said party of the second part shall, at his own expense, immediately replace such destroyed or disabled cars with an equal number of like cars of equally good material, and in all respects as good as those destroyed or disabled, numbered, lettered and marked
1436 the same as the cars so destroyed or disabled were on 1st day of September, 1875, or when destroyed or disabled; but in case an old car is destroyed and replaced by a new one, the party of the second part shall be allowed for the difference in value between the old one in condition it was on September 1, 1875, and the new one replaced.

And said party of the second part further contracts and agrees that none of said cars shall be sub-let without the written consent of the party of the first part. That he will keep each and every one of said free from any and all liens for taxes, executions, attachments,

or judgments, or other liens for or upon claims due from his or his agents, and to deliver said cars at the end of said term in the condition required by the terms of this contract, at such point or points on the line of the Indianapolis, Bloomington and Western Railway as may be designated by said party of the first part free of expense to the said party of the first part. It being understood, however, that the said party of the second part shall in no event be liable for any taxes on said rented cars.

It is stipulated and agreed that, in case of the failure of the party of the second part to pay the rental monthly, as in this contract provided, or within (15) fifteen days thereafter allowed as grace, or to perform any of the other conditions of this contract, made by
1437 the terms thereof obligatory upon the party of the second part, either in whole or in part, then, and in that case, the said party of the first part shall have the right to demand and take possession of said cars; and the said party of the second part hereby agrees to surrender and deliver up to the said party of the first part said cars, at such point or points on the line of said railway as the party of the first part may designate free of expense to the said party of the first part.

In case the number of cars shall be found by the board of inspectors to be less than eleven hundred and seventy (1170), the rental shall only apply to the actual number found to have been in existence on the first day of September, 1875, and the number of cars as they appear upon the books of the said party of the second part shall be taken and deemed to be the actual number in existence at said last named date, unless the contrary is shown by the said party of the second part. In case any of the said cars are withdrawn from the rental by the party of the first part, under the option hereinbefore mentioned and set forth, the said party of the second part hereby agrees to deliver said cars so withdrawn to the party of the first part at such point or points on the line of said railway as the party
1438 of the first part may designate, free of expense to the party of the first part.

It is expressly understood and agreed by and between the parties hereto, that the reference now pending before the master, regarding the rental and repairs of said cars between December 1, 1874, and September 1, 1875, shall in no manner affect the right of the party of the first part to demand and receive the current monthly rental provided for in this contract in strict accordance with the terms and conditions thereof, and at the times and in the manner stipulated in this contract; but if it shall be found on final adjustment and settlement of matters embraced in said reference pending before the master, that the party of the first part is indebted to the said party of the second part on an adjustment of accounts between them from December 1, 1874, to September 1, 1875, said sum shall be allowed as a credit to the said party of the second part on rental under this contract; and if, on the contrary, it shall be found that the said party of the second part is indebted to the said party of the first part,

EXHIBIT B.—I.

EARNINGS AND EXPENSES OF THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY MAIN LINE, FROM DECEMBER 1, 1874, TO DECEMBER 1, 1875.

EARNINGS.

SOURCE.	Dec.	Jan'y.	Feb'y.	March.	April.	May.	June.	July.	Aug.	Sept.	Oct.	Approx. Nov.	Totals.
Freight	$57,941 07	$64,642 11	$54,774 56	$57,103 71	$56,769 88	$46,959 58	$39,450 37	$41,999 73	$53,533 19	$75,145 91	$76,974 20	$82,273 08	$707,567 39
Passenger	38,525 01	30,039 05	25,972 47	30,832 21	26,628 56	24,709 83	26,355 54	25,319 01	28,412 17	41,954 38	34,154 64	26,691 45	359,594 32
United States Express Company	938 [illegible]	570 73	500 58	577 79	815 43	700 63	677 69	636 07	620 35	707 98	793 73	739 67	8,279 22
United States Mail	3,094 58	3,094 58	3,094 59	3,094 58	3,094 58	3,094 59	3,094 58	3,094 58	3,094 59	3,094 58	3,094 58	3,094 56	37,134 97
Miscellaneous	8,283 41	4,154 48	3,333 89	3,805 83	2,890 63	3,618 85	4,048 86	5,998 33	6,420 83	6,893 22	8,685 30	2,723 25	60,856 88
Total	108,782 69	102,500 95	87,676 04	95,414 12	90,199 08	79,083 48	73,627 04	77,047 72	92,081 13	127,796 07	123,702 45	115,522 01	1,173,432 78

EXPENSES.

ACCOUNTS.	Dec.	Jan'y.	Feb'y.	March.	April.	May.	June.	July.	Aug.	Sept.	Oct.	Approx. Nov.	Total.
Advertising	$389 42	$392 54	$450 82	$75 00	$462 18	$274 15	$442 51	$652 42	$588 05	$460 35	$587 42	$587 42	$5,362 28
Foreign Agencies, Passenger					100 00	125 00		18 90	165 00	140 00	140 00	140 00	828 90
Foreign Agencies, Freight	518 16	566 50	904 23	50 32	543 32	941 31	426 41	530 35	604 61	593 97	2,111 24	2,111 24	9,901 66
Maintenance of Buildings	240 95	540 31	271 86	63 00	115 50	7 50	1,196 27	448 45	577 21	517 36	208 81	208 81	4,396 03
Maintenance of Bridges	2,602 39	1,527 42	1,159 05	1,633 58	2,108 65	2,592 15	1,604 95	1,726 52	3,421 54	3,137 06	3,040 15	3,040 15	27,593 61
Conductors, Baggage Masters and Brakemen	7,742 22	7,683 11	7,754 25	7,351 05	6,601 76	6,691 63	5,339 53	5,344 20	5,765 05	6,892 60	6,693 77	6,693 77	80,552 94
Maintenance of Cars	7,564 12	7,079 50	9,167 59	7,714 74	9,985 65	8,708 06	4,986 19	10,741 99	8,381 55	6,490 30	5,821 23	5,821 23	92,465 15
Maintenance of Cars Extraordinary	500 00		500 00	1,945 00	4,000 00	3,750 00	490 60			23,154 68	2,799 74	2,799 74	39,939 76
Car Rental	11,700 00	11,700 00	11,700 00	11,700 00	7,020 00	7,020 00	7,020 00	7,020 00	7,020 00	11,640 00	11,630 00	11,630 00	116,800 00
Damage to Persons and Baggage	73 90	289 50	311 80	737 92	190 25	682 80	68 00	279 29	496 30	133 60	114 50	114 50	3,492 27
Engineers and Firemen	7,440 90	7,746 60	7,553 10	8,448 30	7,109 80	7,255 40	5,936 85	6,097 20	6,885 55	8,341 25	7,758 45	7,758 45	88,331 85
Engine Houses M. S. T. T. E. & R.	632 48	712 89	584 94	340 00	172 61	46 66	139 27	70 77	1,096 27	99 59	594 88	594 88	5,085 26
Fuel and Water Stations	1,582 20	1,583 11	1,515 22	1,359 67	1,262 97	1,849 34	1,259 34	988 94	988 98	920 79	1,003 02	1,003 02	15,118 60
Maintenance of Fences	24 84			5 00	161 85	294 67							486 36
Fuel for Locomotives	4,883 17	7,267 11	7,330 70	7,135 96	4,266 27	4,819 49	4,501 88	4,882 10	5,650 52	7,239 95	6,673 65	6,673 65	70,902 99
General Expenses	3,812 44	3,374 94	3,388 95	2,002 34	3,321 15	3,513 82	4,403 88	3,044 48	3,526 47	2,801 90	2,921 98	2,921 98	40,630 42
Insurance	1,377 50	120 00	120 00					105 00					1,727 50
Maintenance of Motive Power	7,075 73	5,942 28	5,912 65	606 07	5,404 32	3,127 48	2,958 15	3,594 64	4,948 76	4,977 25	5,725 80	5,725 80	62,528 82
Maintenance of Motive Power Extraordinary	1,507 20	1,894 57	1,080 38	582 30	3,081 55	3,719 33	3,795 88	2,266 18	5,954 28	2,695 40	3,585 01	3,585 01	34,167 13
Loss and Damage on Freight	65 18	185 78	199 35	197 00	446 64	924 58	517 79	986 67	674 05	250 87	2,116 81	2,116 81	8,481 53
Legal Expenses	1,107 07	1,415 37	661 37	10,595 37	340 19	1,686 81	4,247 70	111 35	116 25	413 25	422 00	422 00	11,549 43
Printing and Stationery	801 10	580 01	333 95	12,222 55	578 64	1,025 26	677 88	455 17	561 81	475 15	530 10	530 10	7,131 47
Peoria Bridge	213 00	155 00	155 00	6,365 07	245 00	95 16							1,060 16
Maintenance of Road	12,368 03	9,515 25	9,396 18	173 82	12,231 38	11,610 92	14,663 49	18,194 09	19,434 66	18,539 75	19,750 33	19,750 33	176,049 78
Maintenance of Road Extraordinary	5,769 19	5,047 76	10,455 27	1,088 85	14,599 31	40,963 27	30,744 27	58,048 69	98,260 32	20,753 92	13,920 20	13,920 20	324,694 95
Station Service	5,740 43	6,964 85	7,571 21	1,704 22	6,229 86	5,193 20	5,460 56	5,486 31	4,498 74	4,621 43	6,207 52	6,207 52	70,546 70
Stock Killed	337 52	189 56	107 69	125 00	281 49	648 02	805 07	531 90	464 85	1,174 87	1,739 12	1,739 12	8,193 03
Train Service	1,964 25	3,058 87	992 72	5,448 88	1,008 83	816 86	1,229 01	1,625 01	1,080 28	1,215 86	1,657 87	1,657 87	17,406 28
Telegraph Service	1,752 70	1,769 30	1,577 82		1,685 77	1,519 52	1,678 15	1,635 00	1,728 22	1,767 38	1,825 12	1,825 12	20,458 72
Maintenance of Telegraph	125 00	131 95	125 00	5,571 28	109 00	105 00	145 00	94 70	117 00	133 30	139 00	139 00	1,488 95
Track Rent	5,448 88	5,448 88	5,448 88	5 59	5,448 88	2,895 12	3,397 58	3,838 79	7,147 15	5,160 50	4,957 03	4,957 03	59,597 00
Profit and Loss	65 14			463 32									65 14
Taxes			3,322 54	747 02	1,881 26			1,324 33	237 16	5,288 27	153 49	153 49	17,931 82
Griggs House Repairs	24 42	8 98			12 12	74 85	96 82	5 05	2 00	166 50	37 75	37 75	471 83
Miscellaneous	146 63	262 38	1,152 05		233 50	47 40	261 60	14 50					2,581 38
Sleeping Cars	81 17	117 16	553 27		264 34	776 94	35 02	124 07	326 72	1,027 46	349 56	349 56	4,752 29
Chair Cars							4,782 89			10 01	153 04	153 04	5,098 98
Correction Freight Account								3,957 04	1,268 57	1,737 51	1,887 44	1,887 44	10,738 00
Interest and Discount								22 18	199 70	1,075 00			1,296 88
New Work		484 77				18 00	640 70	444 73		745 58	383 33	383 33	3,100 44
New Equipment					450 00	200 00	200 00	200 00	200 00	200 00	200 00	200 00	1,850 00
Right of Way					1,819 30				317 50	9,504 70	5,760 97	5,760 97	23,163 44
Total	$95,677 33	$93,558 25	101,740 86	106,826 15	103,773 34	124,016 70	114,153 24	145,871 52	190,705 12	154,497 16	123,600 33	123,600 33	1,478,020 33
Deficit			14,064 82	11,412 03	13,574 26	44,933 22	40,526 20	68,823 80	98,623 99	26,701 09	897 32	9,078 32	304,587 55
Net Earnings	13,105 36	8,942 70											
Actual operating expenses													1,054,320 93
Extraordinary Repairs													423,699 40

Exhibit B.—II.

Earnings and Expenses of the Indianapolis, Bloomington and Western Railway Extension, from December 1, 1874, to December 1, 1875.

Earnings.

Source.	Dec.	Jan'y.	Feb'y.	March.	April.	May.	June.	July.	Aug.	Sept.	Oct.	Approx. Nov.	Totals.
Freight	$8,015 09	$9,640 91	$5,569 07	$7,753 95	$8,570 35	$6,855 51	$4,471 44	$5,692 09	$9,665 85	$11,098 34	$9,444 23	$8,482 49	$95,259 32
Passenger	5,464 96	4,182 38	3,999 58	4,446 78	3,575 09	3,211 17	3,604 01	4,164 82	4,843 95	4,347 79	3,840 53	3,846 60	49,527 66
United States Express Company	64 70	51 17	48 87	43 92	81 49	94 07	85 53	90 04	66 91	92 06	118 66	75 00	912 42
United States Mail	650 17	450 17	450 16	450 17	450 17	450 16	450 17	450 17	450 16	450 17	450 17	450 16	5,402 00
Total	$13,994 92	$14,324 63	$10,067 68	$12,694 82	$12,677 10	$10,610 91	$8,611 15	$10,397 12	$15,026 87	$15,988 36	$13,853 59	$12,854 25	$151,101 40

Expenses.

Accounts.	Dec.	Jan'y.	Feb'y.	March.	April.	May.	June.	July.	Aug.	Sept.	Oct.	Approx. Nov.	Total.
Advertising		$11 25	$9 37	$25 00	$50 75								$96 37
Foreign Agencies Freight				4 28	2 75	$58 96	$10 55	$16 03	$14 91	$6 85	$1 45	$1 45	117 23
Maintenance of Buildings		239 62			3 00		9 76	26 42	4 50	10 25			293 58
Maintenance of Bridges				300 43		165 00	22 29	10 60	85 80	53 84	187 65	187 65	1,013 26
Conductors, Baggage Masters and Brakemen	1,104 25	856 10	766 20	948 80	878 03	914 27	715 55	756 15	771 10	787 55	762 20	762 20	10,022 30
Maintenance of Cars	363 28	330 55	385 76	282 42	627 55	218 99	821 80	787 52	869 61	747 55	772 56	772 56	6,980 15
Engineers and Firemen	1,757 60	2,017 30	1,876 90	1,104 65	942 25	919 35	928 95	904 20	873 02	952 70	987 05	987 05	14,251 02
Engine Houses W. S. T. T.									79 34	13 72	70 00	70 00	233 06
Fuel and Water Stations	282 00	250 00	250 00	328 05	274 00	250 06	252 74	310 60	270 99	312 78	277 35	277 35	3,335 92
Fuel for Locomotives	1,331 00	1,427 00	1,372 00	1,132 55	1,265 00	865 50	644 50	569 14	795 28	779 00	1,046 35	1,046 35	12,173 64
1450 General Expenses	1,149 80	1,346 12	1,423 60	1,031 78	1,042 07	1,004 66	1,141 56	807 03	1,038 62	816 44	864 71	864 71	12,531 11
Maintenance of Motive Power	1,559 63	1,509 38	1,331 12	1,745 52	1,505 29	2,380 36	1,469 72	1,324 04	1,505 82	1,373 21	1,239 84	1,239 84	18,183 77
Loss and Damage on Freight					19 44	5 30	20 75	2 22		2 32			50 03
Legal Expenses	30 06	30 03	32 48	30 93	96 71	56 25	31 25	31 25	44 00	42 75	39 75	39 75	505 21
Printing and Stationery	265 20	211 65	182 90	194 08	202 23	316 47	104 43	120 36	154 99	146 76	105 13	105 13	2,109 33
Maintenance of Road	3,112 94	2,479 42	2,199 00	2,464 39	3,123 00	3,068 71	2,927 49	3,073 70	3,660 81	3,219 98	3,114 78	3,114 78	35,559 00
Station Service	1,059 20	735 87	766 68	626 60	787 15	543 28	562 67	710 80	1,015 72	900 05	915 13	915 13	9,538 28
Stock Killed	257 68	5 97	48 06	73 93	47 93	18 65	209 31	30 43	5 10	32 89	70 75	70 75	871 55
Train Service	24 38	62 15	17 46	137 30	206 32	159 48	147 14	173 34	178 95	217 45	297 06	297 06	1,918 09
Telegraph	213 75	94 88	239 58	348 08	307 08	274 00	279 65	284 58	295 99	311 25	312 17	312 17	3,273 18
Maintenance of Telegraph	35 00	35 00	35 00	35 00	35 00	35 00	35 00	71 80	35 00	38 50	43 00	43 00	476 30
Taxes	143 50												143 50
Miscellaneous	57 37	6 12		10 43									73 92
Use of Cars	1,808 23	2,028 29	1,338 68	1,322 88	1,295 93	1,540 97	980 50	1,087 85	1,439 03	1,462 89	1,504 10	1,504 10	17,313 45
New Work		300 00	300 00	300 00	300 00	300 00	300 00						1,800 00
Right of Way											2,689 59	2,689 59	5,379 18
Total	$14,554 87	$13,976 70	$12,574 79	$12,347 10	$13,011 48	$13,095 26	$11,615 65	$11,098 06	$13,138 55	$12,228 73	$15,300 62	$15,300 62	$158,242 43
Deficit	559 95		2,507 11		334 38	2,484 35	3,004 50	700 94			1,407 43	2,446 37	7,141 03
Net Earnings		347 93		347 72					1,888 32	3,759 63			
Actual operating expenses													$151,063 25
New work and right of way													7,179 18

Exhibit C.

Indianapolis, Bloomington and Western Railway, Geo. B. Wright, Receiver. Comparative Statement of Earnings and Expenses for the Years Ending November 30, 1874, and November 30, 1875.

	Dec.	Jan'y.	Feb'y.	March.	April.	May.	June.	July.	Aug.	Sept.	Oct.	Nov.	Totals.
Earnings 1873 and 1874	$129,284 12	$149,237 14	$131,001 12	$155,368 11	$135,340 65	$129,435 84	$137,457 81	$130,480 79	$141,409 74	$158,610 57	$148,158 13	$133,428 34	$1,679,212 36
Earnings 1874 and 1875	122,777 61	116,825 58	97,743 72	108,108 94	102,876 18	89,694 39	82,238 19	87,444 84	107,108 00	143,784 43	137,556 04	128,376 26	1,324,534 18
Decrease	6,506 51	32,411 56	33,257 40	47,259 17	32,464 57	39,741 45	55,219 62	43,035 95	34,301 74	14,826 14	10,602 09	5,052 08	354,678 18
Expenses 1873 and 1874	$130,975 98	$141,949 01	$141,655 18	$133,787 67	$138,640 22	$136,669 59	$127,406 13	$135,024 89	$131,722 18	$124,640 13	$129,715 65	$128,187 78	$1,600,374 41
Expenses 1874 and 1875	110,232 20	107,534 95	114,315 65	1.9,173 25	116,784 82	137,111 96	125,768 89	156,969 58	203,843 67	173,340 50	137,201 36	137,201 36	1,639,478 19
Increase						442 37		21,944 69	72,121,49	48,700 37	7,485 71	9,013 58	39,103 78
Decrease	20,743 78	34,414 06	27,339 53	14,614 42	21,855 40		1,637 24						

Earnings and expenses for November, 1875, approximated.

Exhibit B.—II.

Earnings and Expenses of the Indianapolis, Bloomington and Western Railway Extension, from December 1, 1874, to December 1, 1875.

Earnings.

Source.	Dec.	Jan'y.	Feb'y.	March.	April.	May.	June.	July.	Aug.	Sept.	Oct.	Approx. Nov.	Totals.
Freight	$8,015 09	$9,640 91	$5,569 07	$7,753 95	$8,570 35	$6,855 51	$4,471 44	$5,692 09	$9,665 85	$11,098 34	$9,444 23	$8,482 49	$95,259 32
Passenger	5,464 96	4,182 38	3,999 58	4,446 78	3,575 09	3,211 17	3,604 01	4,164 82	4,843 95	4,347 79	3,840 53	3,846 60	49,527 66
United States Express Company	64 70	51 17	48 87	43 92	81 49	94 07	85 53	90 04	66 91	92 06	118 66	75 00	912 42
United States Mail	650 17	450 17	450 16	450 17	450 17	450 16	450 17	450 17	450 16	450 17	450 17	450 16	5,402 00
Total	$13,994 92	$14,324 63	$10,067 68	$12,694 82	$12,677 10	$10,610 91	$8,611 15	$10,397 12	$15,026 87	$15,988 36	$13,853 59	$12,854 25	$151,101 40

Expenses.

Accounts.	Dec.	Jan'y.	Feb'y.	March.	April.	May.	June.	July.	Aug.	Sept.	Oct.	Approx. Nov.	Total.
Advertising		$11 25	$9 37	$25 00	$50 75								$96 37
Foreign Agencies Freight				4 28	2 75	$58 96	$10 55	$16 03	$14 91	$6 85	$1 45	$1 45	117 23
Maintenance of Buildings		239 62			3 00		9 76	26 42	4 50	10 25			293 58
Maintenance of Bridges				300 43		165 00	22 29	10 60	85 80	53 84	187 65	187 65	1,013 26
Conductors, Baggage Masters and Brakemen	1,104 25	856 10	766 20	948 80	878 03	914 27	715 55	756 15	771 10	787 55	762 20	762 20	10,022 30
Maintenance of Cars	363 28	330 55	385 76	282 42	627 55	218 99	821 80	787 52	869 61	747 55	772 56	772 56	6,980 15
Engineers and Firemen	1,757 60	2,017 30	1,876 90	1,104 65	942 25	919 35	928 95	904 20	873 02	952 70	987 05	987 05	14,251 02
Engine Houses W. S. T. T.									79 34	13 72	70 00	70 00	233 06
Fuel and Water Stations	282 00	250 00	250 00	328 05	274 00	250 06	252 74	310 60	270 99	312 78	277 35	277 35	3,335 92
Fuel for Locomotives	1,331 00	1,427 00	1,372 00	1,132 55	1,265 00	865 50	644 50	569 14	795 28	779 00	1,046 35	1,046 35	12,173 64
1450 General Expenses	1,149 80	1,346 12	1,423 60	1,031 78	1,042 07	1,004 66	1,141 56	807 03	1,038 62	816 44	864 71	864 71	12,531 11
Maintenance of Motive Power	1,559 63	1,509 38	1,331 12	1,745 52	1,505 29	2,380 36	1,469 72	1,324 04	1,505 82	1,373 21	1,239 84	1,239 84	18,183 77
Loss and Damage on Freight					19 44	5 30	20 75	2 22		2 32			50 03
Legal Expenses	30 06	30 03	32 48	30 93	96 71	56 25	31 25	31 25	44 00	42 75	39 75	39 75	505 21
Printing and Stationery	265 20	211 65	182 90	194 08	202 23	316 47	104 43	120 36	154 99	146 76	105 13	105 13	2,109 33
Maintenance of Road	3,112 94	2,479 42	2,199 00	2,464 39	3,123 00	3,068 71	2,927 49	3,073 70	3,660 81	3,219 98	3,114 78	3,114 78	35,559 00
Station Service	1,059 20	735 87	766 68	626 60	787 15	543 28	562 67	710 80	1,015 72	900 05	915 13	915 13	9,538 28
Stock Killed	257 68	5 97	48 06	73 93	47 93	18 65	209 31	30 43	5 10	32 89	70 75	70 75	871 55
Train Service	24 38	62 15	17 46	137 30	206 32	159 48	147 14	173 34	178 95	217 45	297 06	297 06	1,918 09
Telegraph	213 75	94 88	239 58	348 08	307 08	274 00	279 65	284 58	295 99	311 25	312 17	312 17	3,273 18
Maintenance of Telegraph	35 00	35 00	35 00	35 00	35 00	35 00	35 00	71 80	35 00	38 50	43 00	43 00	476 30
Taxes	143 50												143 50
Miscellaneous	57 37	6 12		10 43									73 92
Use of Cars	1,808 23	2,028 29	1,338 68	1,322 88	1,295 93	1,540 97	980 50	1,087 85	1,439 03	1,462 89	1,504 10	1,504 10	17,313 45
New Work		300 00	300 00	300 00	300 00	300 00	300 00						1,800 00
Right of Way											2,689 59	2,689 59	5,379 18
Total	$14,554 87	$13,976 70	$12,574 79	$12,347 10	$13,011 48	$13,095 26	$11,615 65	$11,098 06	$13,138 55	$12,228 73	$15,300 62	$15,300 62	$158,242 43
Deficit	559 95		2,507 11		334 38	2,484 35	3,004 50	700 94			1,407 43	2,446 37	7,141 03
Net Earnings		347 93		347 72					1,888 32	3,759 63			
Actual operating expenses													$151,063 25
New work and right of way													7,179 18

Exhibit C.

Indianapolis, Bloomington and Western Railway, Geo. B. Wright, Receiver. Comparative Statement of Earnings and Expenses for the Years Ending November 30, 1874, and November 30, 1875.

	Dec.	Jan'y.	Feb'y.	March.	April.	May.	June.	July.	Aug.	Sept.	Oct.	Nov.	Totals.
Earnings 1873 and 1874	$129,284 12	$149,237 14	$131,001 12	$155,368 11	$135,340 65	$129,435 84	$137,457 81	$130,480 79	$141,409 74	$158,610 57	$148,158 13	$133,428 34	$1,679,212 36
Earnings 1874 and 1875	122,777 61	116,825 58	97,743 72	108,108 94	102,876 18	89,694 39	82,238 19	87,444 84	107,108 00	143,784 43	137,556 04	128,376 26	1,324,534 18
Decrease	6,506 51	32,411 56	33,257 40	47,259 17	32,464 57	39,741 45	55,219 62	43,035 95	34,301 74	14,826 14	10,602 09	5,052 08	354,678 18
Expenses 1873 and 1874	$130,975 98	$141,949 01	$141,655 18	$133,787 67	$138,640 22	$136,669 59	$127,406 13	$135,024 89	$131,722 18	$124,640 13	$129,715 65	$128,187 78	$1,600,374 41
Expenses 1874 and 1875	110,232 20	107,534 95	114,315 65	1.9,173 25	116,784 82	137,111 96	125,768 89	156,969 58	203,843 67	173,340 50	137,201 36	137,201 36	1,639,478 19
Increase						442 37		21,944 69	72,121,49	48,700 37	7,485 71	9,013 58	39,103 78
Decrease	20,743 78	34,414 06	27,339 53	14,614 42	21,855 40		1,637 24						

Earnings and expenses for November, 1875, approximated.

then and in that case the said party of the second part shall pay, or make immediate provision for payment, to the said party of the first part any and all sums so found to be due.

It is further mutually agreed that whenever the serviees of
1439 an umpire shall be required in accordance with the terms of this contract, the expenses shall be borne equally by the parties hereto.

In witness whereof, this contract is signed in duplicate, this 19th day of October, 1875, by the Western Car Company, by F. Lovejoy, president, and Geo. B. Wright, receiver of the Indianapolis, Bloomington and Western Railway.

THE WESTERN CAR COMPANY,
(Signed) By F. LOVEJOY, *President.*
(Signed) GEO. B. WRIGHT,
Receiver I., B. and W. R'y.

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EXHIBIT D.

INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY.

GEORGE B. WRIGHT, RECEIVER.

Balance Sheet General Ledger, October 30, 1875.

To Expense from December 1, 1874, to October 30, 1875	$1,474,854 49	By earnings from December 2, 1874, to October 30, 1875	$1,196,157 92
To new work on main line	2,717 11	By accounts payable	229,890 57
To new work on extension	1,800 00	By conductors	19 50
To new equipment on main line	1,650 00	By I. B. & W. Ry Co	32,137 93
To material account	31,412 48	By Receiver's certificate, iron and steel rails	160,000 00
To C. F. Smith, Cashier	51,138 21	By Receiver's certificate, real estate and right of way	30,000 00
To C. F. Smith, Paymaster	3,665 28	By Receiver's certificate, spikes, bolts, and splices	10,000 00
To local agents	50,202 77	By due other roads	169 58
To United States Express Co	391 92		
To United States Government P. O. Department	20,451 18		
To right of way, main line	17,402 47		
To right of way, extension	2,689 59		
	$1,658,375 50		$1,658,375 50

EXHIBIT E.

INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY.

GEORGE B. WRIGHT, RECEIVER.

Mileage Balance Sheet.

MONTHS.		AMOUNTS.	MONTHS.		AMOUNTS.
1874.			1874.		
Dec.	To rep'ts from foreign r'ds	$10,304 25	Dec.	By rep'ts to foreign r'ds	$4,063 64
1875.			1875.		
Jan'y.	To rep'ts from foreign r'ds	5,995 18	Jan'y.	By rep'ts to foreign r'ds	4,217 52
Feb'y.	To rep'ts from foreign r'ds	2,750 91	Feb'y.	By rep'ts to foreign r'ds	2,224 30
March.	To rep'ts from foreign r'ds	3,401 65	March.	By rep'ts to foreign r'ds	2,290 24
April.	To rep'ts from foreign r'ds	2,800 85	April.	By rep'ts to foreign rd's	2,225 41
May.	To rep'ts from foreign r'ds	5,571 96	May.	By rep'ts to foreign r'ds	3,688 70
June.	To rep'ts from foreign r'ds	4,728 79	June.	By rep't's to foreign r'ds	2,470 69
July.	To rep'ts from foreign r'ds	6,665 05	July.	By rep'ts to foreign r'ds	1,272 23
Aug.	To rep'ts from foreign r'ds	5,953 20	Aug.	By rep'ts to foreign rd's	2,076 64
Sept.	To rep'ts from foreign r'ds	7,822 13	Sept.	By rep'ts to foreign r'ds	2,807 82
Oct.	To rep'ts from foreign r'ds	7,313 30	Oct.	By rep ts to foreign r'ds	2,833 34
		$63,307 27		By Balance	33,186 74
	To Balance	$33,136 74			$63,307 27

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EXHIBIT F.

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY.

GEORGE B. WRIGHT, RECEIVER.

Statement of material used from December 1, 1874, to November 1, 1875.

1,009 $\frac{2}{2}\frac{1}{2}\frac{7}{4}\frac{0}{0}$ tons of re-rolled iron.
3,824 $\frac{8}{2}\frac{1}{2}\frac{2}{4}\frac{}{0}$ tons of new iron.
507 $\frac{1}{2}\frac{3}{2}\frac{7}{6}\frac{0}{0}$ tons of steel rails.
172,500 pounds of track spikes.
90,928 pounds of track bolts.
324,998 pounds of track splice bars.
143,152 ties.

EXHIBIT G.

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY.

Statement of old iron delivered to and rolled iron re-received from the Indianapolis Rolling Mill, December 1, 1874, to December 1, 1875.

MONTH.		POUNDS.	MONTH.		POUNDS.
1874.			1874.		
Dec.	To 12 cars old iron	260,030	Dec.	By 30 cars re-rolled iron	705,930
1875.			1875.		
Jan'y.	To 25 cars old iron	425,450	Jan'y.	By 20 cars re-rolled iron	451,840
Feb'y.	To 7 cars old iron	138,300	Feb'y.	By 28 cars re-rolled iron	632,680
March.	To 32 cars old iron	491,400	March.	By 10 cars re-rolled iron	225,120
April.	To 23 cars old iron	404,300	May.	By 20 cars re-rolled iron	448,300
May.	To 37 cars old iron	628,110	June.	By 15 cars re-rolled iron	337,080
June.	To 24 cars old iron	431,550	Oct.	By 16 cars re-rolled iron	375,368
July.	To 38 cars old iron	764,500		By old iron sold	1,244,445
Aug.	To 45 cars old iron	966,400	Nov.	By 46 cars re-rolled iron	1,145,680
Sept.	To 46 cars old iron	869,600		By balance	1,245,067
Oct.	To 26 cars old iron	456,300			
Nov.	To 50 cars old iron	976,630			
		6,811,570			6,811,570
1874.					
Nov. 30.	To balance	1,245,570			

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EXHIBIT H.

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY.

GEORGE B. WRIGHT, RECEIVER.

Statement of Receipts and Disbursements.

December, 1874.		December, 1874.	
From I., B. & W. R'y	$2,718 58	For vouchers 1 to 3, inclusive	$116 55
From local agents	86,509 90	For account I., B. & W. R'y balance to railroad	9,408 90
From miscellaneous	540 00	For account I., B. & W. R'y pay-roll	29,959 14
		Balance carried forward	53,283 89
	$89,768 48		$89,768 48
January, 1875.		January, 1875.	
From balance brought down	$53,283 89	For vouchers 6 to 93, inclusive	$28,162 24
From local agents	75,507 43	For foreign roads	25 48
From foreign roads	1,075 11	For pay-rolls	57,182 07
From miscellaneous	4,136 94	For account I., B. & W. R'y, balance to railroads	8,597 39
From I., B. & W. R'y	9,855 89	For account of I., B. & W. R'y, vouchers and pay-rolls	1,282 34
		Balance carried forward	68,609 74
	$163,859 26		$163,859 26
February, 1875.		February, 1875.	
From balance brought down	$68,609 74	For vouchers 97 to 284, inclusive	$39,768 31
From local agents	98,981 22	For foreign roads	5,015 40
From foreign roads	9,799 22	For pay-rolls	52,141 49
From miscellaneous	2,859 84	For account I., B. & W. R'y, balance to railroads	9,165 15
From I., B. & W. R'y	13,523 87	Balance carried forward	87,683 54
	$193,773 89		$193,773 89

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EXHIBIT H.—Continued.

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY.

GEORGE B. WRIGHT, RECEIVER.

Statement of Receipts and Disbursements.

March, 1875.		March, 1875.	
From balance brought down	$87,683 54	For vouchers 287 to 496	$41,756 42
From local agents	108,598 80	For foreign roads	7,326 35
From foreign roads	2,286 24	For pay-rolls	50,000 19
From miscellaneous	12,313 91	For account I., B. & W. R'y, balance to railroads	4,431 89
From I., B. & W. R'y	281 37	Balance carried forward	107,649 01
	$211,163 86		$211,163 86
April, 1875.		April, 1875.	
From balance brought down	$107,649 01	For vouchers 497 to 726	$86,239 73
From local agents	108,993 19	For foreign roads	6,182 21
From foreign roads	6,949 50	For pay-rolls	52,192 20
From miscellaneous	4,360 11	For account I., B. & W. R'y, balance to railroads	1,068 02
From I., B. & W. R'y	235 20	Balance carried forward	82,504 85
	$228,187 01		$228,187 01
May, 1875.		May, 1875.	
From balance brought down	$82,504 85	For vouchers 727 to 1003	$58,424 20
From local agents	86,981 77	For foreign roads	16,611 91
From foreign roads	9,223 49	For pay-rolls	51,038 77
From miscellaneous	10,355 05	For account of Peoria and Springfield railroad	3,421 25
From I., B. & W. R'y	389 75	For account I., B. & W. R'y, balance to railroads	6,097 28
		Balance carried forward	55,661 50
1456	$191,254 91		$191,254 91
June, 1875.		June, 1875.	
From balance brought down	$55,661 50	For vouchers 1004 to 1223	$40,263 55
From local agents	86,286 90	For foreign roads	8,259 75
From foreign roads	4,130 92	For pay-rolls	55,890 62
From miscellaneous	3,710 91	For account I., B. & W. R'y, balance to railroads	3 59
From I., B. & W. R'y	21 38	Balance carried forward	45,394 10
	$149,811 61		$149,811 61
July, 1875.		July, 1875.	
From balance brought down	$45,394 10	For vouchers, 1224 to 1478	$42,928 91
From local agents	81,934 88	For foreign roads	5,542 83
From foreign roads	6,042 81	For pay-rolls	59,058 48
From miscellaneous	12,667 72	Balance carried forward	38,509 29
	$146,039 51		$146,039 51
August, 1875.		August, 1875.	
From balance brought down	$38,509 29	For vouchers 1479 to 1710	$49,388 38
From local agents	93,947 96	Foreign roads	11,478 12
From foreign roads	6,760 43	For account Peoria and Sp'd R. R	5,250 00
From miscellaneous	18,475 10	For pay-rolls	56,718 19
From I., B. & W. R'y	40 23	Balance carried forward	34,898 32
	$157,733 01		$157,733 01
September, 1875.		September, 1875.	
From balance brought down	$34,898 32	For vouchers 1711 to 1955	$63,737 47
From local agents	131,065 48	For foreign roads	10,123 15
From foreign roads	7,313 84	For pay-rolls	61,847 15
From miscellaneous	43,319 25	For I., B. & W. R'y, bal. to rd's	1,816 19
From I., B. & W. R'y	37 00	Balance carried forward	79,099 93
	$216,623 89		$216,623 89

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Exhibit H.—Continued.

Indianapolis, Bloomington and Western Railway.

George B. Wright, Receiver.

Statement of Receipts and Disbursements.

October, 1875.		October, 1875.	
From balance brought down	$79,099 93	For vouchers 1956 to 2247	$91,353 01
From local agents	121,064 89	For foreign roads	7,310 72
From foreign roads	8,008 03	For pay-rolls	63,857 22
From miscellaneous	8,937 37	Balance carried forward	54,589 27
	217,110 22		$217,110 22
November, 1875.		November, 1875.	
From balance brought down	$54,589 27	For vouchers 2248 to 2542	$68,501 46
From local agents	128,271 36	For foreign roads	12,892 15
From foreign roads	17,785 13	For pay-rolls	64,175 90
From miscellaneous	17,053 55	For acc't I. B. & W. R'y, bal. to railroads	52 58
From I., B. & W. R'y	177 55	Balance carried forward	72,254 77
	$217,876 86		$217,876 86
December, 1875.			
From balance brought down	$72,254 77		

Recapitulation of Receipts and Disbursements, from December 1, 1874, to November 30, 1875.

Received from local agents	$1,230,143 78	Paid vouchers 1 to 2542	$610,640 22
Received from foreign roads	79,164 72	Paid foreign roads	90,768 07
Received from miscellaneous	138,729 75	Paid pay-rolls	624,102 28
Received from I., B. & W. R'y	27,280 82	Paid Peoria and Springfield Railroad	8,671 25
		Paid I., B. & W. R'y, balance to railroads	40,640 99
		Paid I., B. & W. R'y pay-rolls, etc.	28,241 48
		Balance on hand	72,254 77
	$1,475,319 07		$1,475,319 07

GENERAL STATEMENT AND ABSTRACT OF PRINCIPAL ORDERS OF THE COURT AS TO RECEIVER'S DUTIES, ETC.

"In the execution of said trust the said receiver shall have
1458 authority to employ all necessary and proper agents, attorneys, officers and laborers; and to fix and alter the compensation of said agents, attorneys, officers and laborers. He shall have authority, subject to the supervision of this court, to make such repairs and additions to said railroad and property as may be essential to the safety of the same, and proper, in his judgment, for carrying on said business; also to make all contracts within the scope of the charter powers vested in said defendant, the Indianapolis, Bloomington and Western Railway Company, that may be necessary in carrying on the business of said railroad, subject to like supervision of the court; also to regulate and fix the rate of fare and freight, subject to the like supervision of the court; also to collect any and all debts or claims owing, or that may become due and owing to the said defendant, the Indianapolis, Bloomington and Western Railway Company from any source; and out of the money that shall come into his hands from the operating of said road, as such receiver, he shall pay, first, all current expenses incident to the administration of this trust, and to the operating of said railroad, including all sums due connecting or intersecting lines of railroad, arising from the inter-
1459 change of business heretofore done with any and all such connecting or intersecting lines; and all amounts now legally due from said defendant railway company, for taxes, county, State or special. Next, all amounts due to all operatives and employés and agents of said railroad for any services rendered said railroad since the 1st day of July, 1874. Next, all amounts due for supplies purchased and used in operating said road, and furnished since the said first day of July last; and all money not needed for the purposes aforesaid shall, as fast as received, be applied to the other indebtedness of said railway company, but subject to the supervision and further order of the court."

"And such receiver shall also have full power and authority in his own name, or using the said corporate name, to bring all suits, actions and legal proceedings necessary and proper in his judgment to the proper execution of his trust and the best interests of said property. And such receiver is further directed and authorized, in case it is proper, in his judgment to use any of the balance of funds remaining in his hands after such prior payments are made, for the purpose of protecting such of the personal property of the corporation under lien or pledge from sacrifice, by the payment of interest on or renewals of such pledge or liens."

"And said receiver is hereby vested with all the general powers of receivers in cases of this kind, subject to the supervision of this court, and may apply for further instruction from time to time as he may desire, in the execution of his trust."

1460 *At March Term*, 1875.

"That for the purpose of repairing and preserving in a fit and proper condition for business the roadway of the said Indianapolis, Bloomington and Western Railway Company, said receiver is instructed to purchase on the lowest and most available terms practicable not exceeding 3,000 tons of iron or steel rails for the purpose of relaying track, such purchase to be a charge upon the roadway and income as part of the necessary expenses of managing the property now in the jurisdiction of this court."

At a subsequent period this portion of the order was so modified as to require the receiver in issuing the certificates to state upon their face that they constitute a first lien and charge upon the main line of said railway from Pekin, Illinois, to Indianapolis, Indiana, and the income thereof.

And the receiver is instructed to make no settlement or delivery of any property claimed by the Rogers Locomotive and Machine Works Company, as stated in the said petition, but to instruct the said Locomotive and Machine Works Company that it will be necessary, first, to file its own petition in this court for relief in the premises."

"And the said receiver is instructed not to use any more of the cars of the said Western Car Company than in his judgment
1461 are necessary for the due conduct of the business of said company; and to undertake with all convenient speed to procure the use of such cars as are necessary upon the payment of only reasonable and fair rental at present prices, and to report his action in this matter to the court."

"And the receiver is further instructed to pay such claims for right of way and depot grounds purchased prior to his appointment, and secured by mortgage or trust deeds, or held under bond or contract, the title thereof to the company depending upon payment of the specified. For this purpose the receiver is instructed to borrow money not to exceed the sum of thirty-five thousand ($35,000) dollars, such sum to be a charge on the roadway and income as part of the necessary expenses in managing the property now in the jurisdiction of this court."

On the 13th day of April written notice was served upon the receiver by the president of the Peoria and Springfield Railroad Company that the lease of said road to the Indianapolis, Bloomington and Western Railway Company, dated April 8, 1873, had become forfeited by non-payment of rent and failure to comply with the terms of the lease, and on the 13th of May following, said Peoria and Springfield Railroad Company filed a petition with the judge
1462 of De Witt Circuit Court, asking the surrender of the property and cancellation of the lease, to which petition answer was made and the matter argued by counsel; whereupon the court ordered a temporary suspension of the original lease and directed the making of a new lease for a term of ten years based upon traffic, the

court reserving all questions of forfeiture of the original lease and the confirmation of the present lease for subsequent consideration and decision in open court.

At August and September Terms, 1875.

The court set aside the contract or agreement of arbitration between the receiver and Western Car Company relating to rental of the cars of said company, and referred the matters in dispute to a master to take evidence and report the same to the court, which matters are still pending. Several other orders of minor importance were entered at these terms.

At November and December Terms, 1875.

The following among other orders were entered in said courts:

"That the report of said receiver be and the same is hereby ordered to be filed, and said receiver is ordered to have the same printed. That said receiver be and is hereby authorized to negotiate for the purchase of cars and locomotives, and for the leasing
1463 of the same, and report to the court before entering into any contract the best terms upon which cars and locomotives can be purchased and leased for the use of the road.

The court also orders that the order heretofore made, authorizing the receiver to pay all wages due employees on account of
1464 labor performed after July 1st, 1874, be and the same is hereby amended so as to include payment of all back pay-rolls or certificates or vouchers for labor, and that all such payments be made pro rata upon all amounts due.

1465 Fourth Report of George B. Wright, Receiver, filed with the courts March 29, 1876.

REPORT OF RECEIVER.

DeWitt Circuit Court of Illinois, March Term, 1876.

Montgomery Circuit Court of Indiana, April Term, 1876.

MALCOLM C. TURNER and others
against
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY and others. } Chancery.

The undersigned, receiver of the Indianapolis, Bloomington and Western Railway Company, respectfully submits his fourth report of receipts and disbursements of his office, and the general management of the property under his charge, for three months ending February 29, 1876.

Schedule "A" is a statement of monthly receipts and disbursements, accompanied with full details of items, from December 1st, 1875, to March 1st, 1876.

Schedule "B" is a statement of the actual earnings and expenses for November and December, 1875, and January, 1876. In the last

report the approximate earnings and expenses only for November were given.

Schedule "C" is a comparative statement of earnings and expenses for November and December, 1875, January and February, 1876, compared with the same months a year previous—the earnings and expenses for February, 1876, being approximate.

1466 The extraordinary repairs, renewals and additions to the property included in schedule "B" under the various heads of extraordinary repairs, maintenance of road, new work, etc., consist of the following items:

New and rerolled iron put down . . .	$1146\frac{1760}{2240}$ tons,	
(about twelve miles) costing. . . .	$27,594.86	
Less old iron taken in part payment . . .	18,508.97	
		$9,085.89
3942 new cross ties, costing		1,263.58
37,423 lbs. splice bars and bolts, costing		1,095.48
Rebuilding Indianola round house, burned December 1, 1875, ...		5,617.57
Repairing trestle work at each end of bridge over the West Fork of Vermillion River		2,300.00
Thoroughly repairing trestle bridge over Pigeon Hollow, also over Lick Creek, also East Fork of Vermillion River, and also over Stony Creek		3,000.00
Rebuilding bridge over Coal Creek near Veedersburg, (150 feet,) and repairing trestle at each end of same . .		1,500.00
Removing station house from Beckwith to St. Joseph, and rebuilding same		383.34
(The citizens of St. Joseph contributed $200 of this improvement, which, when paid, will be a credit on this amount.)		
Extraordinary repairs to locomotives		8,750.68
Payments on right of way (main line,) . .	$1,154.30	
" " (extension,) . . .	2,346.09	
		3,500.39
Payments on new equipment, (balance in full on pay car)		600.00
Total		$37,096.93

All the above expenditures were absolutely necessary for the protection of the property and its judicious management.

General Statement.

Since filing my last report herein, at the November and December terms, a most remarkable winter has been experienced. We have scarcely had one week of steady cold weather and frozen ground. So open and mild has been the season, that the public highways leading to the railroad have been much of the time impassable,

and the products of the country have not been marketed. It is believed that not one-fifth of the crops of the past season has yet
1467 been moved. Whenever a few days or a week of solid roads have been experienced, the equipment has been entirely inadequate to move the traffic offered. Notwithstanding this the increase of earnings for the months of November, December, January and February, over the corresponding months of the year previous, has been $88,730.72. Had the weather been cold and the ground frozen, or had the highways been dry and solid, the increase would undoubtedly have been more than double.

One effect of the open winter has been the difficulty and expense of maintaining the track in good condition. The soft loam with which most of the road is ballasted, yielding readily to the influence of rain and frost, caused the settling of joints and sliding of track, requiring an unusual number of laborers and great care to keep the road in safe condition. But that this force and care has been well employed, is evidenced by the fact that not a wheel has been off the rail for four months by reason of defective track, and scarcely one from any other cause.

The open winter has been favorable for making improvements to the track, bridges, etc., as will be observed by the expenditures made on those accounts, and the track may now be regarded as in safe and good condition for business. During the coming summer, it is hoped, the west end of the main line can be ballasted at the most important points, and that the ordinary renewal of ties and iron will maintain the track in fair condition.

Dividend on back Pay Rolls.

On the first of February, a surplus of earnings being on hand, a dividend of ten per cent. was made upon the back pay rolls, in accordance with the orders of the courts. The amount disbursed on this account up to the 1st of March, was $24,319.80.

The weather for the past three weeks has been so unfavorable for business, as to render it impossible to continue the payment of a similar dividend monthly, as was expected; but, inasmuch as business has only been delayed, and the traffic is still on the line of the road, it is believed that as soon as the weather and public highways become settled, payments upon this class of indebtedness can be resumed out of surplus earnings.

Receiver's Certificates.

As reported at the last term of court, the entire issue of receiver's certificates is $203,200.00. The total amount maturing since their issue, with the interest thereon, has been promptly paid as it fell due, and amounts in the aggregate to $77,460.38. This includes $29,-
240.29, maturing in March, 1876, which are not included in
1468 the disbursements specified in schedule "A." The remainder of the issue, with the interest thereon ($139,588.93), will mature through the present year, and until March, 1877.

[Folios 1469 to 1471, both inclusive, were erased in original copy.]

1472 *Oliver Adams's Proposal.*

No. 9.—To furnish 85 per cent. of the purchase money for the construction of 500 box cars, the receiver to designate the builder. The purchase price to be upon a gold basis; the cars to be leased to the receiver for five years, and 27 per cent. per annum, gold, to be paid in monthly instalments on the amount advanced. Party making proposal shall hold title to cars until expiration of the five years' lease, when title passes to the railroad company upon the payment of one dollar for each car.

It is important to the interest of the trust that action should be taken at an early date on the foregoing propositions, and your receiver instructed in the premises. The small equipment of freight cars and locomotives belonging to the railroad company renders it impossible to conduct the transportation business of the road without additional equipment, and as the present lease with the Rogers Locomotive Works is but temporary, and the lease with the Western Car Company expires in September next, it is essential that action should be taken in time to prevent any embarrassment that might result by delay.

All of which is respectfully submitted.

GEO. B. WRIGHT, *Receiver.*

INDIANAPOLIS, INDIANA, March 29th, 1876.

Exhibit "A."—Condensed Statement.

DR. George B. Wright, Receiver Indianapolis, Bloomington & Western R'y Co., CR.

December, 1875—		
Rec'd balance brought forward	$72,254	77
Rec'd local agents	139,843	98
Rec'd foreign roads	13,740	60
Rec'd miscellaneous	1,988	50
	227,827	85
January, 1876—		
Rec'd balance brought down	77,690	61
Rec'd local agents	134,168	83
Rec'd foreign roads	19,257	42
Rec'd miscellaneous	8,686	45
	239,803	31
February, 1876—		
Rec'd balance brought down	71,157	56
Rec'd local agents	123,346	20
Rec'd foreign roads	10,099	80
Rec'd miscellaneous	11,684	89
	216,288	45
Balance forward	$66,052	45

December, 1875—		
Paid pay rolls for Nov., 1875	$62,068	83
Paid vouchers 2543 to 2757	57,756	03
Paid foreign roads	8,974	02
Paid receiver's certificates	21,338	36
Balance carried forward	77,690	61
	227,827	85
January, 1876—		
Paid pay rolls for Dec., 1875	60,147	64
Paid vouchers 1 to 320	69,248	65
Paid foreign roads	20,590	29
Paid receiver's certificates	18,659	17
Balance carried forward	71,157	56
	239,803	31
February, 1876—		
Paid pay rolls for Jan'y 1876	62,878	88
Paid vouchers 321 to 1376	48,104	71
Paid foreign roads	6,703	16
Paid receiver's certificates	8,229	45
Paid I., B. & W. R'y "back pay"	24,319	80
Balance carried forward	66,052	45
	$216,288	45

1473 EXHIBIT "B"—1.

Earnings and Expenses I. B. & W R'y, Main Line, for November and December, 1875, and January, 1876.

EARNINGS.	Nov., 1875.	Dec., 1875.	Jan'y, 1876.	Total.
Freight	$84,176 51	$82,316 76	$80,665 49	$247,158 76
Passenger	27,132 73	31,898 77	28,471 17	87,502 67
U. S. Express	739 67	757 98	601 98	2,099 63
U. S. Mail	3,094 59	3,094 58	3,094 58	9,283 75
Miscellaneous	11,913 11	8,027 23	5,610 01	25,550 65
Totals	$127,056 61	$126,095 62	$118,443 23	$371,595 46

EXPENSES.

ACCOUNTS.	Nov., 1875.	Dec. 1875.	Jan'y, 1876.	Total.
Advertising	$399 20	$200 93	$503 75	$1,183 88
Foreign Agencies, Passenger	140 00	140 00	165 00	445 00
Foreign Agencies, Freight	140 45	527 69	656 74	1,324 88
Maintenance of Buildings	403 39	981 96	483 50	1,868 85
Maintenance of Bridges	7,332 87	4,423 32	6,158 50	17,914 77
Conductors, Baggage-Masters, and Brakemen	6,692 58	7,405 65	7,782 30	21,880 53
Maintenance of Cars	5,622 31	6,423 25	3,647 59	15,693 15
Maintenance of Cars, Western Car Co	3,770 16	5,390 26	2,899 91	12,060 33
Car Rental	11,630 00	11,630 00	11,630 00	34,890 00
Damage to Persons and Baggage		276 10	212 90	489 00
Passenger Correction Account	202 55	228 40	279 20	710 15
Engineers and Firemen	7,647 10	8,509 50	8,723 35	24,879 95
Engine-Houses, M. S. & T. T. E. & R	574 58	413 55	113 39	1,101 52
Fuel and Water Stations	886 14	1,123 07	1,348 19	3,357 40
Fuel for Locomotives	6,621 97	8,155 56	8,185 92	22,963 45
General Expenses	3,308 79	3,533 81	3,343 02	10,185 62
Freight Correction Account	742 16	2,705 82	1,519 50	4,967 48
Insurance		1,994 35	120 00	2,114 35
Maintenance of Motive Power	3,751 76	5,094 94	3,928 09	12,774 79
Maintenance of Motive Power, extraordinary	2,538 96	3,271 12	2,940 60	8,750 68
Loss and Damage, Fseight	189 83	99 55	101 47	390 85
Legal Expenses	124 10	189 90	202 40	516 40
Printing and Stationery	587 62	630 56	738 90	1,957 08
Indianola Round-House	166 91	4,596 49	854 17	5,617 57
Maintenance of Road	23,728 56	12,756 44	18,931 81	65,416 81
Station Service	6,922 40	6,509 47	4,713 18	18,145 05
Stock Killed	133 95	1,849 83	442 56	2,426 34
Train Service	1,621 55	1,338 72	2,013 62	4,973 89
Telegraph Service	1,686 64	1,756 68	1,837 34	5,280 66
Maintenance of Telegraph	172 15	118 75	118 55	409 45
Track Rent	4,496 88	4,025 25	3,619 10	12,141 23
Griggs House Repairs	14 25	17 45	5 85	37 55
Miscellaneous		556 50	263 85	820 35
Chair Cars			555 86	555 86
Sleeping Cars	790 77	116 50	363 76	1,271 03
Profit and Loss	135 30			135 30
Interest		638 36	674 55	1,312 91
New Work	383 34			383 34
New Equipment	200 00	200 00	200 00	600 00
Right of Way		1,000 00	154 30	1,154 30
Totals	$103,759 22	$108,909 73	$110,432 80	$323,101 75
Net Earnings	$23,297 39	$17,185 89	$8,010 43	$48,493 71

1474 EXHIBIT "B"—2.

Earnings and Expenses, I., B. & W. R'y, Extension, for November and December, 1875, and January, 1876.

EARNINGS.	Nov., 1875.	Dec., 1875.	Jan'y, 1876.	Total.
Freight	$9,685 14	$8,731 74	$11,148 06	$29,564 94
Passenger	3,856 61	5,418 97	4,757 30	14,032 88
U. S. Express	99 17	118 13	95 75	313 05
U. S. Mail	450 16	450 17	450 17	1,230 60
Totals	$14,091 08	$14,719 01	$16,451 28	845,261 37

EXPENSES.

ACCOUNTS.	Nov., 1875.	Dec., 1875.	Jan'y, 1876.	Total.
Foreign Agencies, Freight	6 75	39 95	135 96	182 66
Maintenance of Buildings	45 00	11 25	236 32	292 57
Maintenance of Bridges	86 63	106 45	235 16	428 24
Conductors, Baggage-Masters, and Brakemen	768 72	902 50	910 00	2,581 22
Maintenance of Cars	731 85	911 69	815 46	2,459 00
Damage to Persons and Baggage	71 50			71 50
Engineers and Firemen	889 65	1,061 80	1,058 05	3,009 50
Engine-House M. S. &. T. T. E. & R	64 25	90 12	28 41	182 78
Fuel and Water Stations	271 75	332 15	286 66	890 56
Fuel for Locomotives	1,276 00	1,736 80	1,262 80	4,275 60
General Expenses	896 05	1,000 05	887 40	2,783 50
Freight Correction Account	653 68	717 31	46 06	1,417 05
Maintenance of Motive Power	1,535 10	1,517 75	1,588 80	4,641 65
Loss and Damage, Freight	23 85	3 94		27 79
Legal Expenses	40 30	55 10	52 10	147 50
Printing and Stationery	126 06	107 52	102 59	336 17
Maintenance of Road	3,027 49	2,286 25	2,352 95	7,666 69
Station Service	904 39	1,056 24	975 85	2,936 48
Stock Killed	6 30	25 69	80 58	112 57
Train Service	239 95	267 05	322 90	889 90
Telegraph Service	330 81	358 13	354 47	1,043 41
Maintenance of Telegraph	35 00	35 00	35 00	105 00
Use of Cars	1,379 96	1,463 50	1,846 29	4,689 75
Right of Way			2,346 09	2,346 09
Totals	13,471 04	14,086 24	15,959 90	43,517 18
Net Earnings	620 04	632 77	491 38	1,744 19

EXHIBIT "C."

Indianapolis, Bloomington and Western Railway.

COMPARATIVE STATEMENT OF EARNINGS AND EXPENSES.

November, December, January, and February, 1874, 1875, *and* 1876.

	Nov.	Dec.	Jan'y.	Feb'y.	Total.
Earnings 1875 and 1876	141,147 69	140,814 63	134,894 51	142,649 14	559,505 97
Earnings 1874 and 1875	133,428 34	122,777 61	116,825 58	97,743 72	470,775 25
Increase	7,719 35	18,037 02	18,068 93	44,905 42	88,730 72
Expenses 1875 and 1876	117,230 26	122,995 97	126,392 70	120,591 53	487,210 46
Expenses 1874 and 1875	128,187 78	110,232 20	107,534 95	114,315 65	460,270 58
Increase		$12,763 77	$18,857 75	$6,275 88	$26,939 88
Decrease	$10,957 52				

February, 1876, earnings and expenses approximated.

First Annual Report of Receiver to U. S. Courts.

Second Annual Report of George B. Wright, Receiver, filed with the courts, January Term, A. D. 1877.

United States of America, Southern District of Illinois and District of Indiana.

1475 In the Circuit Courts of said Districts.

MALCOLM C. TURNER *et al.*
vs.
INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY *et al.*
} In Chancery.

To the Honorable Judges of said Courts:

The undersigned, receiver in the above entitled cause, would respectfully report the operations of the Indianapolis, Bloomington and Western Railway for the year ending November 30th, 1876, with other matters connected with the trust.

On the nineteenth day of July, 1876, the above cause was removed to these courts from the Circuit Court of DeWitt county, Illinois, and the Circuit Court of Montgomery county, Indiana. All reports heretofore made to said State courts are now on file in these courts. But as no formal report has yet been made to your honors, the receiver deems it proper that he should briefly recur to matters connected with the trust from the date of his assuming control of the property, in order that your honors may be more fully advised as to the condition and requirements of the trust.

The receiver took formal possession of the property on the first day of December, 1874, and on the 19th day of March, 1875,
1476 filed in said State courts his first report giving an inventory of the property and a partial statement of its condition and wants.

Subsequent experience has proven that the property was in much worse condition than was then apprehended. About forty miles of the track between Indianapolis and Crawfordsville was in such condition that trains could not be got over it in safety. The iron was nearly worn out, and the ties so much decayed as to require immediate renewal. Many miles of the main track between Bloomington and Pekin were also in bad condition, needing new iron, ties and ballast. The rolling stock of the company was very much run down, and in need of large and expensive repairs. During the winter of 1874–5 the breakage of rails was an average of thirty per day. Accidents were of daily occurrence.

The employees had not been paid for many months; taxes, bills for current supplies, and large balances to other roads were unpaid.

Travel and freight was driven from the line, and pre-existing arrangements with connecting lines were broken up.

It was not until the summer of 1875 that the real condition of the property could be ascertained, and during that period continued rains

and high water caused serious delay in the needed improvements, and heavy damage was sustained to the track and several bridges were injured or destroyed. Every day developed new defects and difficulties to be overcome. To add to the embarrassment, the crops on the line were almost an entire failure for the years 1874 and 1875, and the general depression of business throughout the country was felt and experienced on the road and shown in its earnings. It was believed that the earnings of the road for some time would fall short of a sum sufficient to meet current expenses, and put the property in reasonable fair condition to earn money, notwithstanding it had been understood that the property was capable of earning half a million of dollars annually over and above ordinary operating expenses. An order of the court was obtained for the issue of receiver's certificates for the purchase of 3,000 tons of iron or steel rails and the necessary spikes, bolts and splice-bars for laying the same, and to issue certificates not exceeding $35,000 for the payment of claims for right-of-way and depot grounds, purchased prior to your receiver's appointment. The entire issue of certificates was limited by the orders of the courts to two hundred and eleven thousand dollars; $165,000 for rails, $11,000 for spikes, bolts and splice-bars, and $35,000 for right of way. This sum was much less than was asked for by the receiver, and has proven entirely inadequate for the
1477 purpose of repairing and preserving in a fit and proper condition for business the railway and property of the company.

A statement in detail will be given in this report of what has been expended for these purposes during the past two years. During the past year the income of the road has been less than anticipated, on account of the small crops of 1875, the almost total failure of the wheat, rye and oats crops, and the partial failure of the corn crop of 1876. But a more serious loss has been experienced from the bitter and prolonged contest between the Trunk lines, resulting in the lowest rates for passengers and freight ever known in this country, and which affected not only the Trunk lines themselves, but equally, or to a greater extent, collateral and connecting lines.

Much criticism has been indulged in, that this and other Western roads have not maintained *higher* rates, or abandoned the unremunerative traffic altogether, notwithstanding the action of the Trunk lines. It is sufficient answer to this criticism to say that such a policy could not be carried out without a union of all the lines connecting with or doing business over the Trunk lines, and such a union was impossible so long as the Trunk lines extended into the territory of the Western roads, or controlled collateral lines or branches which did.

It is conceded that it is not possible to transport freight over this line, with its present grades and rented equipment, within the minimum cost at the average through rates of the past year; but in considering the question of accommodating the communities dependent upon the line for their outlet, and in retaining the legitimate traffic of the road, in which through and local requirements are intimately

blended, it has been the aim and effort at all times to foster the local interests to the fullest extent, and as far as possible avoid the through freight traffic until such time as the through rates should be brought to a more renumerative standard. Unfortunately, the bulk of freight traffic on the line consists of grain, which finds almost an exclusive market in New England, or at the seaboard, and must be transported at very low rates in competition with water transportation, or competing lines with better and more economical facilities.

These dificulties can never be fully overcome until the maximum grades are reduced and the equipment is owned by the company, instead of being rented at twenty or twenty-five per cent. per annum of its cost, or until the rates of transportation are largely increased.

1478 *Grades.*

As an illustration of the grades to be overcome in hauling freights eastward from Pekin, the western terminus of the road, the following table is given:

Points on the Line where Grades Exist.	Distances from Indianap'lis	Rising Grade, Ft. Per mile.	Lgth of grade.	
			In feet.	Miles.
	MILES.			
At Pekin, Ills	202.	84.$\frac{50}{100}$	4,000	.8
Two miles east of Hope Mines	198.5	63.$\frac{38}{100}$	3,000	.6
Two and one-fourth miles west of Leslie	197$\frac{3}{4}$	63.$\frac{33}{180}$	3,400	.6
Three-fourths of a mile west of Mackinaw	187.$\frac{2}{10}$	68.$\frac{60}{100}$	13,000	2.4
Two and three-fourth miles west of Mackinaw	183.$\frac{4}{10}$	63.	1,500	.3
Two and one-half miles west of Downs	179.$\frac{2}{10}$	68.$\frac{60}{100}$	2,500	.5
One-half mile west of Downs	177.$\frac{2}{10}$	63.$\frac{30}{100}$	3,300	.6
At Downs	176.	68.$\frac{60}{100}$	1,900	.4
Three-fourths of a mile west of Twin Grove	171.$\frac{4}{10}$	68.$\frac{60}{100}$	3,900	.75
One mile west of Illinois Central R'y Crossing	165.$\frac{5}{10}$	68.$\frac{60}{100}$	4,600	.85
Three miles west of Gillem	161.$\frac{8}{10}$	57.	4,000	.8
One-fourth of a mile west of Downs	157.$\frac{3}{10}$	68.$\frac{60}{100}$	1,700	.3
One mile and a fourth east of Downs	155.$\frac{8}{10}$	63.	1,500	.3
Middle Fork bridge, between Hilliary and Oakwood	91.	53 to 80	5,000	1.
At North Fork, Vermillion river	86.	63.	1,200	.2
At Stony Creek, near Danville	84.	52.$\frac{80}{100}$	6,200	1.2
At Covington	72.	52.$\frac{80}{100}$	7,700	1.3
Four miles west of Veedersburg	69.	52.$\frac{80}{100}$	3,500	.7
At Coal Creek, near Veedersburg	64.$\frac{5}{10}$	52.$\frac{80}{100}$	7,200	1.3
In city of Crawfordsville	44.$\frac{2}{10}$	66.	1,200	.2

The above table only presents a few of the most prominent rising grades going east from Pekin. Many of the grades westbound are

equally as steep, though not so numerous. Lower grades are very numerous on the line in both directions. Many of these grades could be reduced at small expense, but to reduce all the grades on the main line to a maximum of 45 feet would involve an expenditure of from $250,000 to $350,000. The grades on the line called the extension are small and comparatively few in number.

With the present grades, the utmost capacity of an ordinary freight engine between Pekin and Indianapolis is fifteen loaded freight cars of ten to twelve tons.

1479 *Equipment.*

The present equipment of the road consists of

45 locomotive engines.
27 passenger coaches.
5 baggage, express and mail cars.
5 baggage and express cars.
3 baggage and smoker cars.
2 postal cars.
220 box freight cars.
117 stock freight cars.
171 coal freight cars.
104 flat freight cars.
16 caboose cars.
10 pilot caboose cars.
29 box caboose cars.
3 boarding cars.
500 new box freight cars, purchased under orders of the court upon 60 monthly payments.
760 box freight cars, rented from the Western Car Company at $10 each per month.

During a portion of the year this equipment has been found entirely inadequate to handle promptly the freight traffic offered, and for a portion of the year nineteen locomotives have been rented from the United States Rolling Stock Company, but they have all been surrendered, and the only equipment at present on the road under rental is the 760 freight cars belonging to the Western Car Company. Your receiver would recommend the purchase of these, or about an equal number of new cars, if the same can be obtained at reasonable cost, and on monthly payments about equivalent to the usual rental.

Line of Road.

From Indianapolis to Pekin (called main line)	202.3	miles.
From Champaign to Havana (called extension)	100.7	"
From White Heath to Decatur (called Decatur Branch)	30.9	"
Total	333.9	miles.
Side tracks		

In addition to the lines above indicated, the trains are run over the tracks of the Peoria & Springfield Railroad Company between Peoria and Pekin, a distance of nine and two-tenths miles, on a traffic rental.

The Extension.

The extension, so called, is the line of road from Champaign westwardly, with a branch from White Heath to Decatur. The main line of the extension is only built to Havana, Illinois. From that

point westwardly about $80,000 has been expended on the
1480 bridge-work for crossing the Illinois river at Havana, and a portion of the grading and trestle-work immediately west of the Illinois river, and the purchase of certain right of way on said line.

Your receiver has not felt at liberty to expend any money west of the Illinois river, but respectfully submits to the court that among the claims presented for his allowance and adjustment is one in favor of James A. Harpham for right of way over his farm, immediately west of the Illinois river, over which the grading has been done, and the land, about twelve or fifteen acres, rendered useless to the owner. For the right of way over this land a contract was made by the company with the owner for the payment of $2,000, but nothing has been paid thereon, and the rights of the company will be forfeited unless some adjustment of the claim is soon made. Your receiver respectfully requests instruction from the court as to the settlement of this claim.

Indebtedness of the Company.

In his first annual report your receiver gave a full statement of the liabilities of the company existing on the first day of December, 1874, with a statement of the various mortgage liens then existing, and the amount of capital stock issued by the company. No change has taken place in the indebtedness since that date, except the payment of balances due railroads and a portion on back pay rolls, and its increase by accumulated interest. The same may be stated briefly as follows:

First Mortgage—Danville, Urbana, Bloomington & Pekin Railway bonds, dated April 1, 1869—40 years---- $2,000,000
(Secured by mortgage on main line from Pekin eastwardly about 122 3-10 miles. Interest, 7 per cent., payable semi-annually in gold. No interest paid since April, 1874.)

First Mortgage—Indianapolis, Bloomington & Western Railway bonds, dated April 1, 1869—40 years---- 3,000,000
(Secured by mortgage on main line from Indianapolis to Pekin, a distance of about 202 2-10 miles. Interest 7 per cent. gold, payable semi-annually. No interest paid since April 1, 1874.)

Second Mortgage—Indianapolis, Bloomington & Western Railway bonds, dated October 1, 1870—30 years 1,500,000
(Secured by mortgage on main line and prop-
1481 erty between Indianapolis and Pekin. Interest 8 per cent. currency, payable semi-annually. No interest paid since January 1, 1874.)

First Mortgage—Indianapolis, Bloomington & Western Railway Co., dated June 28, 1872—40 years. 5,500,000
(Secured by mortgage on "Extension Line," between Champaign, Illinois, and some point on Mis-

sissippi river, a distance of about 185 miles, and on Branch between White Heath and Decatur. Line of road contemplated about 215 miles, only 130 3-10 miles in operation. Interest on these bonds, 7 per cent. gold, payable semi-annually. (No interest paid since January 1, 1874.)

Total mortgage bonded debt $12,000,000

Floating Debt.

Balance due railroads	$20,570 72	Paid	$20,570 72
Pay rolls	281,719 09	" about	55,000 00
Taxes	154,173 52	" (Ind.) "	5,000 00
Vouchers	94,503 61	"	None.
Bills payable	1,832,853 61	"	None
General ledger accounts	1,213,394 59	"	None.
Total floating debt Dec. 1, 1874		$3,597,215 14	
Total bonded and floating debt, exclusive of interest, Dec. 1, '74		$15,597,215 14	
Capital stock issued		7,610,200 00	
Grand total of stock and debt, exclusive of interest, Dec. 1, '74		$23,207,415 14	

To this must be added the accrued interest and coupons that have since become due.

Taxes.

Among the claims authorized by the court to be paid, by the receiver, out of the income of the road, was all amounts legally due for taxes, county, state, or special. So far as the taxes in the State of Indiana are concerned, this order has been carried out, and the taxes then due and since accrued have been regularly paid. But no taxes have been paid in the State of Illinois for the past three years.

At the time of the appointment of the receiver there was
1482 pending in the United States Circuit Court for the Northern District of Illinois, proceedings to enjoin the collection of the taxes due in said State for the year 1873, and subsequently, by the advice of counsel and the directions of the courts, proceedings were instituted to enjoin the payment of taxes due in 1874 and 1875, and injunctions were granted, but finally dissolved.

On the 31st day of July last, on application of the receiver to the Judge of the Southern District of Illinois, an order was granted authorizing the receiver to commence legal proceedings in any courts of the State of Illinois, or before any judges thereof having jurisdiction, to enjoin the collection of all taxes levied against the company by virtue of any assessment of the capital stock, including the

franchises of the company. In accordance with the terms of said order your receiver has filed his petition in the Peoria Circuit Court of the State of Illinois, to enjoin the payment of taxes levied against the company upon the capital stock and franchises of the company in the several counties of that State.

The following amounts of taxes for the years named have been assessed against the company, and are unpaid:

For the year 1873—		
On capital stock	$84,258 31	
" tangible property	22,512 31	
Total		$106,775 62
For the year 1874—		
On capital stock	$3,922 23	
" tangible property	38,370 11	
Total		42,292 34
For the year 1875—		
On capital stock	$9,641 16	
" tangible property	26,923 73	
Total		36,564 89
Total tax on capital stock in Illinois		$97,821 70
" " tangible property "		87,811 15
Grand total of all taxes for 1873, 1874, 1875		$185,632 85

Should it finally be determined that all of these taxes must be paid, or only the taxes assessed upon tangible property, considerable time will be required to meet the same, over and above the
1483 current operating expenses of the road and liabilities already contracted, and your receiver requests a specific order and direction in the matter.

Back Pay-rolls and Supply Bills.

In the decretal order of the State courts at the time of the appointment of your receiver, it was among other things ordered, that out of the money coming into the hands of the receiver he should pay: "First, all current expenses incident to the administration of the trust and the operating of said railroad, including all sums due to connecting or intersecting lines of railroad, arising from their interchange of business heretofore done with any and all such connecting or intersecting lines. And all amounts now (then) legally due from said defendant railway company for taxes, county, State or special. Next, all amounts due to all operatives and employes and agents of said railroad for any services rendered said railroad since the 1st day of July, 1874. Next, all amounts due for supplies

purchased and used in operating said road and furnished since the said 1st day of July last."

On the first of December, 1874, when your receiver took charge of the property, he found many of the employes had not been fully paid for several months prior thereto, and that there was due to them, as nearly as could then be ascertained, for the months of July, August, September, October, and November, 1874, the sum of $250,316.99, and for the months of March, April, May, and June, of the same year, about $31,402.10. Many of the employes were in destitute circumstances, and very clamorous for their pay. A strike among all the employes was threatened, and about two or three hundred employes at the shop did suspend work and refused to resume until paid or assurance given that payment would soon be made. Under this emergency, and believing that the income of the property would soon enable your receiver to discharge all the indebtedness to the men, about $26,000 was distributed among the employes, in the month of December, 1874, on back pay-rolls, and assurance given that as fast as possible, under the orders of the court, the back pay-rolls would be paid.

As the earnings of the road did not, subsequently for many months, yield sufficient income over and above the current operating expenses, and necessary repairs to keep the road in operation, nothing more was paid on back pay-rolls until February, 1876, when a dividend of ten per cent. was made on these rolls. A constant
1484 pressure and clamor was made for the payment of these rolls, numerous petitions were sent your receiver, and to the judges of the courts, committees waited upon your receiver and the judges, urging their payment.

At the November and December terms of said State courts, on application of attorneys for certain employes, and parties holding the claims for back pay, the following order was entered in both courts: "That the order heretofore made, authorizing the receiver to pay all wages due employes on account of labor performed after July 1, 1874, be, and the same is hereby amended, so as to include the payment of all back pay-rolls or certificates, or vouchers for labor, and that all such payments be made pro rata upon all amounts due."

In accordance with the terms of the foregoing order a dividend of ten per cent. was made upon all the back pay in the month of February, 1876. Nothing has been paid on this class of indebtedness since.

On the nineteenth day of July, 1876, the Farmers' Loan and Trust Company, complainants in the cross-bill in this cause, filed a motion in the Southern District of this court for the State of Illinois, to vacate the several orders in respect to the payment of claims for supplies and other operating expenses due prior to the appointment of your receiver. This motion is still pending and undetermined. No hearing of the motion has yet been had. This class of claims has been a source of great embarrassment and annoyance to the management of the trust. Frequent appeals have been made to the

judges of the State courts, and the impression has been firmly fixed in the minds of the holders of these claims that they would be protected, and so soon as the earnings of the road would permit would be paid, and your receiver would respectfully suggest that the question whether the said back pay-rolls and supply bills shall be paid, and to what amount, shall be determined as speedily as practicable.

As the demand upon the income of the road for repairs and protection of the property has consumed all the earnings for the past two years, and there are still outstanding certificates given for the purchase of rails, and the taxes in the State of Illinois are still unadjusted, your receiver would suggest that whatever amount the court shall find to be due and to be paid on either or both of said classes of claims, should the court determine that all or any portion thereof should be paid, as well as whatever amount of taxes may be finally established against the company in the State of Illinois, be provided for by the issue of receiver's certificates, and their payment distribu-
1485 ted through such a period that the earnings of the property can be applied to their liquidation.

Nothing has been paid on claims for supplies furnished the company prior to December 1, 1874.

Western Car Company—Rental Matter.

The matter of rental of cars of the Western Car Company, between the first of December, 1874, and September 1, 1875, is still pending, on reference to special master, appointed by the DeWitt Circuit Court of Illinois, at the September term of said court, 1875.

Special Commissioners.

At the March and April terms of the DeWitt Circuit Court of Illinois, and the Circuit Coart of Montgomery county, Indiana, respectively, on motion of the attorneys for the Farmers' Loan and Trust Company, said courts entered the following order:

"And the court, being fully advised in the premises, doth hereby appoint Lyman N. Andrews and Russell Elliott, both of Indianapolis, special masters to examine the accounts and reports of Geo. B. Wright, the receiver herein, as such receiver up to and including the report made by said receiver at this term.

"And it is further ordered that upon the failure or refusal
1486 of either said Andrews or Elliott to act, then that the other may act as sole master.

"And it is further ordered that all of said accounts and reports are hereby referred to the special masters for examination and report.

"It is further ordered that said masters if acting together, or either of them acting alone, shall, before making and presenting final report, notify R. E. Williams of Bloomington, Illinois, and Wiley & Parker of Charleston, Illinois, and J. D. Campbell of Davenport, Iowa, that such report is about to be made, to the end that said parties may have an opportunity to examine and except to said report;

and said masters are hereby authorized to hear evidence that may be offered by either or both parties, and report the same.

"And it is further ordered, that said masters shall on the report classify said accounts according to the usual methods of keeping railroad accounts.

"And further, that said masters' report to the court be made by the next term of this court.

"It is further ordered, that said masters shall also examine, ascertain and report the amount of money earned or received by the I. B. & W. Railway Co., or persons in possession of said railroad, between the 18th of November, 1874, and the first day of the following December, and also report as to what disposition was made of the same, and by whom, and that the same shall be reported separately, the receiver's to be acted upon in the first instance."

The commissioners appointed under the above order both accepted the appointment, and the reports, vouchers and books of the receiver, together with the books and records of the company, were all placed at their disposal, and every facility offered that would enable the commissioners to make a complete and thorough examination and report in accordance with the terms of said order. Said commissioners concluded their investigations, and have filed their report with the courts. Certain exceptions have been filed to said report and the courts asked to recommit the said report, without approval, to the said special masters, or others, with certain instructions.

Contracts.

1487 All leases made by the receiver and contracts for new buildings, rebuilding cars, bridges, etc., and for furnishing ties and wood (except such improvements as have been made by regular employés,) have been made in writing, and are respectfully submitted to the courts.

All contracts, leases and improvements have been made under general or specific orders of the courts, from time to time, and competition has been invited and sought, in all instances, for the purpose of securing economy as well as permanency in every improvement made.

The following are among the principal contracts made:

For the Purchase of Five Hundred New Cars.

On the 17th day of July, 1876, under previous orders of the State courts, your receiver contracted for the building of 500 box
1488 freight cars, to be delivered on or before the first day of September, 1876. These cars were duly delivered and are now in service on the road, in conformity with the terms of the contracts submitted to and approved by the courts.

For the Rental of Nineteen Locomotive Engines.

When the twenty-eight Rogers locomotives were surrendered and taken from the road, it was found that the remaining forty-four engines were insufficient to handle the traffic, and a contract was made with the United States Rolling Stock Company for the use of nine-

teen engines for six months, at $175 per month for each engine, with the privilege of retaining them six months longer if desired at $125 per month, or an average of $150 per month during the year, the receiver to keep said engines in good repair. These engines were of great service, and indispensable to the prompt and regular movement of trains. But toward the close of the six months period the engines of the company were got in better condition, and the difficulty of procuring cars from connecting roads had increassd to such a degree, it was thought advisable to surrender all of the said engines. But your receiver believes that with an average crop, together with the natural growth of business on the line, this class of equipment will have to be increased.

For the Building of Ten Additional Stalls to the Round-House at Urbana, Illinois.

When your receiver took possession of the property there were only two engine-houses on the road—one at Indianola of twelve stalls, and one at Urbana (where the shops of the company are located) of eighteen stalls. These buildings were entirely inadequate to properly protect the engines. The one at Indianola was burned on the first of December, 1875, and immediately rebuilt with the same capacity. The one at Urbana was too small to meet the wants of the road, and its enlargement was determined upon as an absolute necessity for the proper protection of the property. Ten additional stalls were added, completing the circle of the round-house and adding largely to the facilities for taking care of and preserving the property. The cost of this improvement was a little less than six thousand dollars, and it is believed will be more than saved in one year in reduction of repairs and expense upon engines alone.

1489 *For Rent of Offices at Indianapolis.*

On the twentieth of June last a contract was entered into with John B. Cleveland for the use of all the rooms on the second floor of the block known as "Cleveland Block," situated near the southwest intersection of Tennessee and Maryland streets, in Indianapolis, at a rental of $2,500 per annum. The building is very accessible, and well adapted to the purposes for which it is used.

There are twenty-seven rooms embracсd in the lease, affording ample room for all the offices and store-rooms. The removal from the former offices on South Illinois street, where the same amount of rent was paid, was deemed advisable for several reasons, among which was the insufficiency of rooms and their inaccessibility and bad arrangement. Also, there was great danger and fear of fire.

The foregoing are the principal contracts made during the past year. Other minor contracts for supplies, such as wood, coal, ties, etc., were made from time to time, as the necessities of the road required. All of which are respectfully referred to the court for examination and approval.

New Station Houses.

When your receiver took possession of the property, two new sta-

tion houses on the "extension" were nearly completed, under a contract made by the company with the builders, at $900 each. These your receiver was required to pay for, in order to get possession. Only one other new station house has been built on the line by your receiver. That was built at Muncie, Ill., on the main line, the cost of which, together with five acres of land, sufficient side-track and cattle-pens, were contributed by citizens of the neighborhood. It was a valuable donation to the trust, and was the more appreciated on account of the location at that point of a valuable well of water, and running water near at hand, for the use of stock. The depot building at Beckwith station, where little or no business was done, was removed to St. Joseph (Ill.) station, where the depot had been burned before your receiver came upon the road. Two hundred dollars were contributed by the citizens and owners of property in that neighborhood to meet the expenses of this improvement. Many urgent and pressing petitions have been presented for the erection of depots at stations where none have yet been built, and for the enlargement of others where the business has grown far beyond the capacity of the buildings to accommodate it. In most instances these im-
1490 provements would prove very beneficial in increasing the traffic on the line, but your receiver has confined himself to such expenditures as were necessary to preserve the property and properly operate the same.

Improvements and Additions Made for the Protection of the Property.

Such was the condition of the property when your receiver took control of the same, that it could not be operated without large and expensive additions and improvements, many of which were absolutely necessary before the road could be safely run, others could be postponed, though advisable to be done as early as possible, in order to economize the working and management of it. As the foundation of all good railroad management begins with a good track, the first efforts and expenditures were made in that direction. As before stated, that portion of the road between Indianapolis and Crawfordsville being in the worst condition, its improvement was first undertaken. Nothing could be done until the spring and summer of 1875, and work was then very much delayed and interrupted by the heavy rains and high waters, and it was not until the past summer that that portion of the track was got in first-class condition. It was found impracticable and useless to put down new iron on rotten ties, and without ballast; hence it became absolutely necessary whenever new iron or steel was required to provide from one-fourth to one-third the original number of new ties upon which to lay it. Much of the iron and many ties west of Crawfordsville did not give entirely out until the fall of 1875 and winter 1875-6. But early in the spring of 1876 it was found that the west end of the main line, especially between Pekin and Bloomington, was in such condition that without the most prompt and active measures for redeeming the track, that portion of the road would soon be impassable. Hence a large force was em-

ployed, a gravel pit found and purchased, and during the summer the entire track between Pekin and Bloomington, a distance of about thirty-six miles, was thoroughly overhauled, relaid with an average of one thousand new ties to the mile, and well spiked and ballasted. All the work of relaying, putting down new ties and ballasting has been thoroughly done, and will materially lessen the expense of maintaining that portion of the road in the future, if the same is kept up to its proper standard. It is impossible to estimate the value of a smooth track. It tells in every department of management, in the ease and facility of moving the traffic, in the lessening of expense in maintaining motive power and cars, and still more
1491 in avoiding accidents and damages to freight and passengers, and is also the best advertisement for business a road can have. Although much criticism has been made upon the large expenditures in this direction, the work will speak for itself, and its cost will compare favorably with any other similar work in the country. Not to have done it would have been criminal neglect of duty.

The extension is comparatively a new road, having been opened for traffic in 1873, but even on this line many new ties are already needed. What has been said in regard to the bad condition of the track applies equally to the machinery and equipment. Of the 72 engines found on the road on the first of December, 1874, very few were in first class condition, and more than 50 needed thorough overhauling. The passenger coaches required overhauling or rebuilding and the freight cars were in a most wretched condition. If your receiver's first report, with the sworn statement of the superintendent and engineer, and the frequent reiteration of these facts in subsequent reports are not sufficient evidence of this, the controversy now existing between the Western Car Company and the Rogers Locomotive and Machine Works, with your receiver, in regard to the repairs of their cars and locomotives, is certainly conclusive evidence that the property was in very bad condition.

It seems not to have been understood or believed that nearly the entire road and its equipment required thorough overhauling, and that the same could not be done without the expenditure of a large amount of money, and your receiver respectfully invites the most thorough and critical scrutiny into these expenditures, both as to their propriety and their economy.

To give some idea of the amount, character and cost of these improvements and additions, the following specifications are presented:

Statement of New Materials Used, Extraordinary Repairs, New Equipment, New Work, & Right of Way, from Dec. 1, 1874, *to Nov.* 30, 1876.

ACCOUNT.	AMOUNT.
Iron, rerolled, $3{,}240\frac{1590}{2240}$ tons	$81,114 21
Iron, new, $3{,}824\frac{812}{2240}$ tons	201,196 39
Steel rails, $914\frac{290}{2240}$ tons	57,350 43
Splices, 456,987 pounds.	
Spikes, 303,900 pounds.	

Bolts, 142,349 pounds—902,236 pounds	26,701	83
Ties, 264,618	95,051	86
New equipment	63,529	52
1492 Rebuilding 39 locomotives	70,563	85
Changing 4 coaches to chair cars	9,200	38
Rebuilding and refitting 23 coaches.		
Rebuilding and refitting 6 baggage cars.		
Building 4 caboose cars.		
Rebuilding 497 freight cars	111,580	02
Rebuilding 49 hand and rubble cars	2,200	00
31,824 feet new side track	39,749	49
New drill press	900	00
60 miles track ballasted	36,000	00
12,155 feet fencing	737	00
9 stock yards	1,000	93
Rebuilding 71 bridges and culverts	15,461	63
Indianola round house, rebuilt—burned Dec. 1, 1875	6,087	43
Urbana round house, 10 new stalls	5,670	00
Right of way, main line, $22,682.18.		
" " extension, 5,610.43	28,292	61
New store house and boiler shop at Urbana	964	21
Changing 35 platform cars to dumps	6,000	00
3 new station houses	2,979	50
Total	863,331	29

The above amount has been charged in expenses as follows:

ACCOUNTS.	AMOUNT.	
Operating expenses	254,724	67
Maintenance of road, extraordinary	367,900	30
" cars, "	37,140	02
" motive power "	33,122	18
Right of way	28,292	61
New equipment	54,071	32
" " Oliver Adams contract	13,875	69
New work	20,604	50
Western Car Company	53,600	00
	$863,331	29

The amounts charged on the books of the receiver to *Operating Expenses* are believed to be very liberal, in view of the fact that, had the road been in proper condition, this item would have been much less, and with the present condition of the property will be less in future.

1493 *Economies Introduced.*

When your receiver took possession of the property he found several contracts in existence which he deemed burdensome, and which have been either modified or rejected by him, so as to result in a

large decrease of expenses for the past two years. These may be specified as follows:

Reductions on contracts for rental of tracks, buildings, etc., for two years	$110,000
Reduction on contracts for rental of cars, for two years	130,000
Reduction on contracts for purchase of fuel " "	25,000
Total	$265,000

In addition to the foregoing reduction in expenses, reductions have been made from time to time in the pay of employes and agents, or their numbers reduced, as far as was consistent with the proper administration of the trust.

Tabular Statements.

For convenient comparison with other roads, and former periods of this road, the following tabulated statements are given:

EXHIBIT No. 1. *A statement of earnings and expenses of the Indianapolis, Bloomington & Western Railway "Main Line" for the year ending November* 30, 1876.

EXHIBIT No. 2. *Similar statement as to "Extension."*

Although the main line and "extension," so called, are operated and regarded as one line of road, the two lines being covered by separate mortgages, application was made to the courts by the representatives of the main line mortgage bondholders, that the accounts be kept separately; and while doubts may exist as to the propriety of all the charges to the extension, no injury can result to the interest of either line, as all equities can be readily adjusted at the proper time. The extension is treated in these accounts as having no ownership in the equipment employed in operating it, and the accounts for the past year charge the extension with locomotives used on it at the rate of five and six dollars per day, and one cent per mile run by each freight car, and three cents per mile for passenger, mail, baggage, express and caboose cars, and also with whatever expenditures were made on this equipment for repairs, cleaning, etc., and twenty-five per cent. of the general expenses of the trust.

EXHIBIT No. 3. Comparative statement of earnings for years ending November 30, 1875, and 1876.

EXHIBIT No. 4. Balance sheet of receiver's general ledger.

EXHIBIT No. 5. Cash balance sheet of receiver.

EXHIBIT No. 6. Exchange of earnings between extension and main line, and *vice versa*.

EXHIBIT No. 7. Tonnage statement.

EXHIBIT No. 8. Passenger statement.

EXHIBIT No. 9. Mileage account.

EXHIBIT No. 10. Performance of locomotives.

All of which is respectfully submitted.

GEO. B. WRIGHT, *Receiver*.

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EXHIBIT No. 5.

INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY.

GEORGE B. WRIGHT, *Receiver.*

Cash Balance Sheet for the Year ending November 30, 1876.

To balance, December 1st, 1875.....	$72,254 76	By amount of Vouchers paid.....	$755,135 60
To cash received from Agents.....	1,515,317 45	" " " Pay rolls paid.....	774,012 52
" " Foreigh R...	138,313 92	" " " Paid foreign roads...	143,700 08
" " U. S. Gov....	42,711 29	" " " Rec's Certifict's.....	161,112 64
" " U. S. Ex.....	8,731 28	" " " Int. on Recv's cer'fs.	7,858 40
" " Ind. & C.....	19,181 59	" " " I.B.&W. Ry Co. p. r.	25,907 07
" " Mat'al sold..	38,720 01	" " " Peoria & Springf'd R	12,068 28
" " Miscel'n's....	7,038 71	" Balance.....	24,576 08
" " Real estate..	606 65		
" " New depots.	1,621 39		
" " F'g't vcuch..	8,571 34		
" " I. B. & W. R.	1,732 00		
" " Rec's cer'fs..	49,890 28		
	1,904,370 67		1,904,370 67
Trial balance December 1, 1876.....	$24,576 08		

EXHIBIT No. 6.

Statement of Exchange of Earnings Between Main Line and Extension for Year Ending November 30, 1876.

Main Line Earnings from Extension Points.

MONTHS.	Freight.	Passenger.	Total.
December, 1875.....	$13,616 65	$636 42	$14,253 07
January, 1876.....	18,754 47	275 06	19,029 53
February, "	21,497 86	410 00	21,907 86
March, "	6,361 47	529 15	6,890 62
April, "	18,143 15	232 41	18,375 56
May, "	15,267 28	314 66	15,581 94
June, "	15,425 17	564 87	15,990 04
July, "	9,668 56	536 06	10,204 62
August, "	23,539 09	1,029 30	24,568 39
September, "	8,947 03	1,130 32	10,077 35
October, "	14,022 18	921 79	14,943 97
November, "	4,024 04	369 11	4,411 15
Total.....	169,284 95	6,949 15	176,234 10

EXHIBIT No. 1.

MAIN LINE.

EARNINGS AND EXPENSES OF THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY FOR FISCAL YEAR ENDING NOVEMBER 30, 1876.

EARNINGS.	1875. December.	1876. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
Freight	$82,316 76	$80,665 49	$88,680 69	$53,764 08	$80,659 15	$83,592 88	$78,318 51	$42,505 21	$79,069 39	$59,985 70	$76,850 34	$42,842 34	$853,250 54
Passenger	31,898 77	28,471 17	28,740 99	31,075 18	26,627 15	25,660 80	29,471 26	28,412 41	36,840 01	43,174 40	39,202 57	26,361 43	375,936 14
Express	757 98	901 98	588 63	596 10	652 44	640 51	709 33	575 61	704 48	674 34	752 23	711 39	7,965 02
United States Mail	3,094 58	3,094 58	3,094 59	3,094 58	2,387 25	2,387 25	2,387 25	1,702 90	1,702 90	1,702 91	1,702 90	1,702 91	28,054 60
Miscellaneous	8,027 53	5,610 01	4,742 01	4,872 16	4,803 29	7,602 94	7,704 25	6,341 99	10,214 49	15,103 23	13,949 60	13,277 50	102,249 00
Chair Cars	213 50	173 20	296 15	278 46	220 52	277 23	404 93	360 90	609 08	750 61	633 79	346 87	4,565 24
Total	$126,309 12	$118,616 43	$126,143 06	$93,680 56	$115,349 80	$120,161 61	$118,995 53	$79,899 02	$127,140 35	$121,391 19	$133,091 43	$91,242 44	1,372,020 54

EXPENSES (Operating).	1875. December.	1876. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
Advertising	280 93	503 75	487 77	476 50	471 25	720 60	627 46	430 75	433 90	561 85	450 87	477 20	5,922 83
Agencies (Foreign Passenger)	140 00	165 00	200 00	165 00	165 00	140 00	125 00	125 00	125 00	75 00	85 00	85 00	1,595 00
Agencies (Foreign Freight)	527 69	656 74	1,145 33	477 92	492 97	544 90	619 07	331 79	566 21	386 42	320 49	394 16	6,603 69
Maintenance of Buildings	981 96	483 50	590 59	878 69	1,689 17	1 86	205 11	66 11	17 92	319 60	.....	45 55	5,280 06
Maintenance of Bridges	4,423 32	6,158 58	3,873 13	2,400 22	2,081 29	3,172 28	1,919 91	2,423 78	1,077 91	1,194 40	1,391 01	2,251 92	32,369 75
Conductors, Baggagemasters and Brakemen	7,405 65	7,782 30	8,530 20	7,385 80	7,776 30	9,066 85	9,009 80	6,775 55	7,856 15	7,178 55	7,885 10	6,783 69	93,435 94
Maintenance of Cars	6,423 25	3,647 59	5,120 03	4,664 90	6,003 62	8,962 31	5,724 87	3,697 90	3,339 57	3,766 90	7,111 83	499 10	58,961 87
Maintenance of Cars (Western Car Co.)	5,390 26	2,899 91	3,339 09	4,963 06	3,650 37	5,053 21	5,595 03	2,471 32	2,645 40	2,501 15	2,483 86	3,088 37	43,091 03
Damage to Persons and Baggage	276 10	212 90	154 05	67 40	.....	10 00	35 00	225 00	.....	12 50	61 00	10 00	1,063 95
Engineers and Firemen	8,509 50	8,723 35	9,219 95	7,820 35	8,596 80	10,507 40	10,241 20	7,926 50	8,449 95	7,391 70	7,953 75	6,828 70	102,169 15
Engine Houses, M. S. & T. T. Exp. and Rep'rs	413 55	113 39	129 16	118 35	1,027 85	154 76	30 75	185 20	97 45	168 46	306 00	454 26	3,199 18
Fuel and Water Stations, Exp. and Rep's	1,123 07	1,348 19	1,338 97	1,243 50	947 60	1,625 89	1,249 44	1,011 45	1,254 45	1,531 52	1,022 97	1,363 65	14,860 70
Freight Correction Account	2,705 82	1,519 50	1,812 55	1,865 35	1,883 98	1,751 26	1,113 04	1,183 91	1,321 50	1,473 00	790 08	599 20	20,019 19
Fuel for Locomotives	8,155 56	8,185 92	8,915 32	8,120 80	7,028 19	8,291 65	8,529 95	4,769 93	6,677 85	7,222 35	7,858 25	7,654 35	91,410 12
General Expenses	3,533 81	3,342 02	3,442 04	3,995 29	3,967 09	3,911 00	3,932 55	4,231 40	4,042 61	4,215 54	4,439 86	4,192 72	47,269 93
Insurance	1,994 35	120 00	60 00	60 00	.....	.....	.....	750 00	774 96	552 33	.....	.....	4,309 64
Maintenance of Motive Power	8,366 06	6,868 69	8,582 93	8,406 04	7,304 34	7,967 74	7,027 65	7,405 52	4,909 92	5,773 17	4,680 18	6,365 94	83,658 18
Loss and Damage (Freight)	99 55	101 47	1,075 04	152 77	365 24	140 57	130 09	92 80	90 75	48 52	78 90	54 26	2,429 96
Legal Expenses	189 90	202 40	1,187 50	173 25	234 50	1,508 85	362 85	205 40	176 25	784 95	458 65	490 80	5,985 30
Printing and Stationery	633 56	738 90	824 99	714 22	779 18	640 68	670 84	573 02	486 72	421 72	386 65	701 69	7,569 17
Passenger Correction Account	228 40	279 20	304 70	356 40	267 50	311 65	308 65	305 45	453 15	729 75	913 20	442 50	4,900 55
Maintenance of Road	12,756 44	28,931 81	12,810 39	9,511 85	25,042 16	15,933 21	20,628 84	20,417 75	19,450 49	15,040 05	18,511 47	19,206 05	218,240 51
Station Service	6,509 47	4,471 18	6,709 53	4,523 39	6,316 16	6,355 15	6,238 26	6,105 55	6,463 93	4,045 70	6,766 37	5,827 52	70,574 21
Stock Killed	1,849 83	442 56	331 56	539 15	439 56	788 95	858 75	1,045 83	291 45	495 96	229 50	761 10	8,074 20
Griggs House (repairs of)	17 45	5 85	50 00	26 65	2 60	90	26 50	48 17	36 40	1,303 52	495 00	270 80	2,283 84
Train Service	1,338 72	2,013 62	1,354 00	3,105 24	3,083 40	6,856 74	3,894 91	2,397 30	1,725 73	4,592 61	2,361 49	1,817 13	34,540 89
Telegraph Service	1,756 68	1,837 34	1,693 97	1,764 20	1,778 14	1,799 98	1,871 12	1,841 33	1,939 42	1,912 70	1,871 23	1,909 14	21,975 25
Maintenance of Telegraph	118 75	118 55	116 35	119 75	120 00	122 50	115 00	145 00	135 95	107 48	140 00	140 00	1,499 33
Sleeping Cars	116 50	363 76	66 94	569 08	649 80	33 15	3,495 78	49 87	.....	.....	.....	.....	5,344 88
Miscellaneous	566 50	263 85	17 40	249 87	25 00	12 00	100 00	5 24	.....	20 00	.....	40 00	1,289 86
Interest and Discount	638 36	674 55	310 65	1,155 86	109 59	212 92	1,433 05	239 63	1,846 18	2,785 97	260 54	271 27	9,938 57
Indianola Round House	4,596 49	854 17	469 86	.....	.....	.....	.....	.....	.....	.....	.....	.....	5,920 52
Chair Cars	39 10	651 80	374 00	88 26	8 50	72 70	199 31	4,300 15	1,117 44	461 11	227 26	158 67	7,698 30
Taxes	.....	.....	.....	4,826 39	161 15	.....	6 56	.....	156 47	3,718 65	469 18	.....	9,318 40
Maintenance of Fences	.....	.....	.....	.....	25 00	811 00	662 51	274 61	454 52	224 12	.....	102 37	2,554 13
Total Operating Expenses	92,093 58	94,925 34	86,647 99	80,985 50	92,495 30	96,494 66	96,988 85	82,058 21	78,414 60	81,037 25	80,009 69	73,287 11	1,035,438 08
COST.	72.09 p. ct.	80.03 p. ct.	68.69 p. ct.	86.45 p. ct.	80.19 p. ct.	80.30 p. ct.	81.50 p. ct.	102.70 p. ct.	61.05 p. ct.	66.75 p. ct.	60.11 p. ct.	80.32 p. ct.	75.46 p. ct.
Chargeable to Income Aceount, but Not Operating Expenses.													
Car Rental	11,630 00	11,630 00	11,630 00	11,630 00	11,630 00	11,630 00	11,630 00	11,630 00	11,620 00	7,500 00	7,500 00	7,500 00	127,160 00
Track Rental	4,025 25	3,619 10	4,712 59	3,939 30	4,418 58	5,520 14	4,336 16	3,304 29	3,381 87	3,550 03	4,072 57	4,057 35	48,937 23
Locomotive Rental	.....	.....	.....	.....	.....	863 33	2,800 00	1,615 84	3,144 17	3,325 00	3,325 00	2,805 83	17,879 17
Total	15,665 25	15,249 10	16,342 59	15,569 30	16,048 58	18,013 47	18,766 16	16,550 13	18,146 04	14,375 03	14,897 57	14,363 18	193,976 40
Total to Income Account	107,748 83	110,174 44	102,990 58	96,554 80	108,543 88	114,508 13	115,755 01	98,608 34	96,560 64	95,412 28	94,907 26	87,650 29	1,229,414 48
Net	18,560 29	8,441 99	23,152 48	.....	6,805 92	5,653 48	3,240 52	.....	30,579 71	25,978 91	38,184 17	3,592 15	142,606 06
Deficit	.....	.....	.....	2,874 24	.....	.....	.....	18,709 32	.....	.....	.....	.....	.....
IMPROVEMENTS AND BETTERMENTS TO PROPERTY.													
Right of Way	1,000 00	154 30	546 65	14 50	41 50	227 75	.....	19 15	.....	.....	2,611 62	1,063 69	5,679 16
New Work	.....	.....	.....	288 00	.....	2,456 81	2,817 94	1,354 43	1,752 45	482 03	506 94	5,670 00	15,328 60
New Equipment	200 00	200 00	3,200 00	.....	4,417 49	.....	.....	7,320 83	.....	508 00	.....	36,375 00	52,221 32
New Equipment (Oliver Adams' Contract)	.....	.....	.....	.....	.....	.....	.....	.....	.....	4,214 00	5,062 07	4,599 62	13,875 69
Extraordinary Repairs to Road	.....	.....	.....	.....	11,967 91	8,641 22	8,589 36	7,851 69	8,048 62	3,343 05	3,692 10	4,492 18	56,626 13
Total	1,200 00	354 30	3,746 65	302 50	16,426 90	11,325 78	11,407 30	16,546 10	9,801 07	8,547 08	11,872 73	52,200 49	143,730 90
Grand Total of all Expenses	108,948 83	110,528 74	106,737 23	96,857 30	124,970 78	125,833 91	127,162 31	115,154 44	106,361 71	103,959 36	106,779 99	139,850 78	1,373,145 38

EXHIBIT No. 2.

EXTENSION.

EARNINGS AND EXPENSES OF THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY FOR FISCAL YEAR ENDING NOVEMBER 30, 1876.

EARNINGS.	1875. December.	1876. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
Freight	$8,731 74	$11,148 06	$15,487 85	$7,698 77	$14,149 67	$11,103 07	$10,076 97	$7,103 04	$12,497 19	$7,117 84	$10,616 77	$6,045 50	$121,776 37
Passenger	5,418 97	4,757 30	4,993 83	4,871 92	3,910 55	3,819 59	4,441 55	4,622 36	5,876 73	4,730 16	4,691 18	3,755 24	55,889 38
Express	118 13	95 75	73 06	72 92	87 17	86 73	84 72	56 53	69 15	67 31	86 38	78 85	976 70
United States Mail	450 17	450 17	450 17	450 17	549 23	549 23	549 23	549 23	549 23	2,109 62	549 23	549 23	7,754 90
Total	14,719 01	16,451 28	21,004 90	13,093 78	18,696 62	15,558 62	15,152 47	12,331 16	18,992 30	14,024 93	15,943 46	10,428 82	186,397 35

OPERATING EXPENSES.	1875. December.	1876. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
Advertising										18 75			18 75
Agencies (Foreign Freight)	39 95	135 96	192 91	57 22	26 10	40 22	30 22	4 94	11	36	25	2 85	530 89
Maintenance of Buildings	11 25	236 32	16 80	51 20	2 85	22 50	19 77	9 00		26 20	56 50	27 50	479 89
Maintenance of Bridges	106 45	235 16	80 68	370 39	78 62	162 72	496 92	547 64	582 36	385 25	46 27	579 56	3,672 02
Conductors, Baggage-Masters, and Brakemen	902 50	910 00	1,147 85	1,078 25	1,194 45	1,126 50	1,076 80	892 81	1,201 20	855 80	923 00	803 90	12,113 06
Maintenance of Cars	911 69	815 46	905 09	602 98	518 52	398 54	333 45	763 36	674 52	866 58	672 90	705 83	8,168 92
Engineers and Firemen	1,061 80	1,058 05	1,332 00	1,174 70	1,439 80	1,331 45	1,286 30	907 65	1,522 25	1,080 00	1,195 85	998 00	14,387 85
Engine Houses, M. S. & T. T. Exp's and Rep'rs	90 12	28 41	9 69	13 25	6 45	43 95	21 14	212 59	39 60	17 05	5 40	11 25	498 90
Fuel and Water Stations, Exp's and Rep'rs	332 15	286 55	267 90	323 50	217 60	300 30	374 74	280 84	253 85	264 01	241 64	275 31	3,418 50
Maintenance of Fences						114 42	27 80	232 20	89 15	16 00			479 57
Fuel for Locomotives	1,736 80	1,262 80	1,478 52	1,479 58	733 41	1,314 20	1,301 35	890 09	1,342 60	1,096 15	1,434 00	1,115 00	15,184 50
General Expenses	1,000 05	887 40	942 20	1,164 61	1,126 52	1,172 00	1,160 22	1,014 24	1,230 80	1,172 56	1,296 21	1,142 03	13,308 84
Maintenance of Motive Power	521 75	604 80	530 90	1,191 24	1,482 85	1,348 83	923 73	833 72	1,520 48	649 48	916 41	1,538 62	12,062 81
Loss and Damage, Freight	3 94		5 10			3 74	10 92	1 23	6 72		8 12	1 21	40 98
Legal Expenses	55 10	52 10	60 25	52 85	54 60	489 60	52 10	85 95	55 30	57 75	138 90	70 95	1,225 45
Printing and Stationery	107 52	102 59	154 04	162 23	160 90	126 48	150 06	147 24	141 12	127 62	105 85	226 00	1,711 65
Maintenance of Road	2,286 25	2,352 95	2,320 95	3,490 70	3,986 25	5,068 42	3,979 16	4,382 51	4,466 00	5,135 87	4,812 31	5,276 78	47,558 15
Station Service	1,056 24	975 85	1,082 09	626 15	1,128 28	1,023 55	1,078 58	864 04	1,203 67	899 83	1,523 83	727 34	12,189 45
Stock Killed	25 69	80 58	30 69	13 35	6 50	70 00	314 91	20 00	54 80	13 15	152 00	57 65	839 32
Train Service	265 05	322 90	414 10	531 00	360 56	346 50	600 90	378 67	284 82	306 83	322 50	254 69	4,389 71
Telegraph Service	358 13	354 47	293 27	360 60	370 67	376 35	419 65	409 98	420 00	358 62	356 92	334 76	4,413 42
Maintenance of Telegraph	35 00	35 00	35 00	35 00	35 00	35 00	35 00	35 00	35 00	32 52			347 52
Freight Correction Account	717 31	46 06	7 56	272 02	22 69	3 16	76 84	10 25	4 00	10 30	7 05	32	1,177 56
Taxes				10 30									10 30
Damage to Persons and Baggage									48 75				48 75
Total Operating Expenses	11,626,74	10,783 52	11,307 59	13,061 12	12,952 62	14,918 43	13,769 55	12,923 95	15,177 10	13,390 68	14,215 91	14,149 55	158,276 76
COST.	78.99 p. ct.	65.54 p. ct.	53.35 p. ct.	99.75 p. ct.	69.27 p. ct.	95.82 p. ct.	90.87 p. ct.	104.80 p. ct.	79.91 p. ct.	95.47 p. ct.	89.16 p. ct.	135.77 p. ct.	84. 91 p. ct.
Chargeable to Income bnt not Operating Expenses.													
Use of Cars	1,463 50	1,846 29	2,380 94	1,335 67	2,311 08	2,309 28	1,776 01	1,522 60	2,314 06	1,796 01	2,026 77	1,504 54	22,586 75
Use of Locomotives	996 00	984 00	1,044 00	972 00	1,050 00	1,134 00	936 00	972 00	1,296 00	936 00	780 00	780 00	11,880 00
Total	2,459 50	2,830 29	3,424 94	2,307 67	3,361 08	3,443 28	2,712 01	2,494 60	3,610 06	2,732 01	2,806 77	2,284 54	34,466 75
Total to Income Account	14,086 24	13,613 81	14,732 53	15,368 79	16,313 70	18,361 71	16,481 56	15,418 55	18,787 16	16,122 69	17,022 68	16,434 09	192,743 51
Net	632 77	2,837 47	6,272 37		2,382 92				205 14				
Deficit				2,275 01		2,803 09	1,329 09	3,087 39		2,097 76	1,070 22	6,005 27	6,346 16
IMPROVEMENTS AND BETTERMENTS TO PROPERTY.													
Right of Way		2,346 09	17 50			7 25				200 00		350 00	2,290 84
New Work								203 25		172 20			375 45
Extraordinary Repairs to Road						207 00			302 42				509 42
Total		2,346 09	17 50			214 25		203 25	302 42	372 20		350 00	3,805 71
Grand Total of all Expenses	$14,086 24	$15,959 90	$14,750 03	$15,368 79	$16,313 70	$18,575 96	$16,481 56	$15,621 80	$19,089 58	$16,494 89	$17,022 68	$16,784 09	$196,548 22

EXHIBIT No. 3.

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY.

GEORGE B. WRIGHT, RECEIVER.

Comparative Statement of Earnings for Years ending November 30, 1875 and 1876.

	1874. December.	1875. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
EARNINGS, Main Line	108,782 69	102,500 95	87,676 04	95,414 12	96,199 68	79,083 48	73,627 04	76,823 71	91,928 51	127,796 07	123,702 45	127,056 61	1,184,590 75
" Extension	13,994 92	14,324 63	10,067 68	12,694 82	12,677 10	10,610 91	8,611 15	10,397 12	15,026 87	15,988 36	13,853 59	14,091 08	152,338 23
Totals	122,777 61	116,825 58	97,743 72	108,108 94	102,876 18	89,694 39	82,238 19	87,220 83	106,955 38	143,784 43	137,556 04	141,147 69	1,336,928 98
	1875.	1876.											
EARNINGS, Main Line	126,309 12	118,616 43	126,143 06	93,680 56	115,349 80	120,161 61	118,995 53	79,899 02	127,140 35	121,391 19	133,091 43	91,242 44	1,372,020 54
" Extension	14,719 01	16,451 28	21,004 90	13,093 78	18,696 62	15,558 62	15,152 47	12,331 16	18,992 30	14,024 93	15,943 46	10,428 82	186,397 35
Totals	141,028 13	135,067 71	147,147,96	106,774 34	134,046 42	135,720 23	134,148 00	92,230 18	146,132 65	135,416 12	149,034 89	101,671 26	1,558,417 89
Increase	18,250 52	18,242 13	49,404 24		31,170 24	46,025 84	51,909 81	5,009 35	39,177 27		11,478 85		221,488 91
Decrease				1,334 60						8,368 31		39,476 43	

EXHIBIT No. 4.

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY.

GEORGE B. WRIGHT, RECEIVER.

Balance Sheet of General Ledger, November 30th, 1876.

Income account (1875) main line		219,991 04
Operating expenses, November 30, 1875, to November 30, 1876, main line	1,035,438 08	
Operating expenses, November 30, 1875, to November 30, 1876, extension	158,276 76	
Rentals, main line	193,976 40	
Rentals, extension	34,466 75	
Total debit to income account		1,422,157 99
Right of way, main line, November 30, 1875	17,003 02	
Right of way, main line, November 30, 1876	5,679 16	
		22,682 18
Right of way, extension, November 30, 1875	2,689 59	
Right of way, extension, November 30, 1876	2,920 84	
		5,610 43
New work, main line, November 30, 1875	3,100 45	
New work, main line, November 30, 1876	15,328 60	
		18,429 05
New work, extension, November 30, 1875	1,800 00	
New work, extension, November 30, 1876	375, 45	
		2,175 45
New equipment, main line, November 30, 1875	1,850 00	
New equipment, main line, November 30, 1876	52,221 32	
		54,071 32
New equipment, Oliver Adams's contract		13,875 69
Extraordinary repairs to road, main line	56,626 13	
Extraordinary repairs to road, extension	509 42	
		57,135 55
Western Car Co., unadjusted account		3,751 85
Store account		39,176 04
Cashier and paymaster		24,576 08
Local agents and conductors		21,841 49
United States Express Company		1,043 39
U. S. Government, P. O. Department		7,384 51
Receiver's certificates, real estate and right of way		2,200 00
Due from other roads and individuals		16,808 17
		1,932,840 23

Income account, (1875,) extension		449 97
Earnings, Nov. 30, 1875, to Nov. 30, 1876, main line	1,372,020 54	
Earnings, Nov. 30, 1875, to Nov. 30, 1876, extension	186,397 35	
Total credit to income account		1,558,417 89
Accounts payable		277,686 11
Indianapolis, Bloomington and Western Railway Co		1,895 98
Receiver's certificates, iron and steel rails		92,890 25
Receiver's certificates, spikes, bolts, and splices		1,500 00
		1,932,840 23

Extensian Earnings from Main Line Points.

Months.	Freight.	Passenger.	Total.
December, 1875.....	$430 30	$184 95	$615 25
January, 1876.....	358 83	303 95	662 78
February, "	364 88	185 80	550 68
March, "	461 91	265 98	727 89
April, "	457 00	181 21	638 21
May, "	469 66	144 57	614 23
June, "	385 80	152 60	538 40
July, "	231 32	160 50	391 82
August, "	336 03	254 50	590 53
September, "	336 07	245 05	581 12
October, "	723 27	245 90	969 17
November, "	422 35	149 71	572 86
Total.....	4,977 42	2,474 72	7,452 14

Earnings to Main Line from Extension in excess of earnings to Extension from Main Line..... $168,781 96

[Folios 1498 and 1499 were erased in original copy.]

1500 Second Annual Report of Receiver to U. S. Courts.

Third Annual Report of George B. Wright, Receiver, filed with the courts January Term, A. D. 1878.

United States of America,
Southern District of Illinois and District of Indiana.

In the Circuit Court for each of said Districts.

Malcolm C. Turner et al.
vs.
Indianapolis, Bloomington & Western Railway Company et al.
} In Chancery.

To the Honorable Judges of said Courts:

The undersigned, receiver in the above entitled cause, would respectfully report the operations of the Indianapolis, Bloomington & Western Railway for the year ending November 30, 1877.

The following exhibits contain a condensed statement of the operations:

Exhibit No. 1.

Statement of earnings and expenses of "Main Line" for the year ending November 30, 1877.

Exhibit No. 2.

Statement of earnings and expenses of "Extension" for the same period.

1501 The large amount charged to general expenses on both "Main Line" and "Extension" is caused by carrying into this year certain expenses for the two years previous, all entered in expenses for the current year.

There is also an increase in interest and discount of $10,209.35 caused by the renewal of Receiver's certificates, interest on temporary loans and deferred payments of rentals and vouchers for supplies, made necessary by the reduced earnings from month to month.

Exhibit No. 3.

Comparative statement of earnings for the years ending November 30, 1876, and 1877. This statement shows a decrease of earnings each month, amounting for the year to $277,172.26.

At the same time the expenses chargeable against earnings for the same period show a decrease of $329,000.48, and the net earnings an increase over the previous year of $51,823.22.

Exhibit No. 4.

Balance sheet of Receiver's General Ledger for the year ending November 30, 1877.

In this sheet is a charge to Illinois taxes of $41,703.26.

This charge properly belongs to income account, but as no division has been agreed upon or established as between the "Main Line" and "Extension," the accounting officer could not properly make this charge. The division as shown is based upon the assessments made in each township through which the road runs, and where both "Main Line" and "Extension" are located in the same township, the division is made on mileage basis.

This amount paid on Illinois taxes was provided for by the sale of Receiver's certificates, having one year to run, and bearing eight per cent interest. Payment was made only on tangible property tax, and as none of the taxes against the road in Illinois had been paid for the years 1873-4-5 and '6, and as the fund provided for this purpose was not sufficient to extinguish all the tangible property tax, it has been applied mostly on the taxes of 1875 and '6. Before all the taxes can be paid the question of division between the "Main Line" and "Extension" can be agreed upon, or determined by the court.

The State and county officials have appreciated the depressed condition of the affairs of the company, and have shown a willing-

1502 ness to extend the time of payment as far as possible. It is hoped the tangible property tax, legally assessed, can be provided for in a few months. The capital stock tax, amounting to about $97,000, was temporarily enjoined by the State court; upon final hearing the injunction was dissolved. Thereupon your receiver immediately prayed an appeal to the Supreme Court, and upon filing a sufficient bond, the injunction was continued in force pending the

decision of the case, which is still before the Supreme Court of Illinois.

Exhibit No. 5.

Cash balance sheet of receiver for the year ending November 30, 1877.

Exhibit No. 6.

Exchange of earnings between "Main Line" and "Extension" and *vice versa.*

Exhibit No. 7.

Tonnage statement for the year.

Exhibit No. 8.

Statement of passenger earnings and number of passengers carried for the year.

Exhibit No. 9.

Mileage account for the year.

Exhibit No. 10.

Performance of locomotives.

Miscellaneous Matters.

During the past year there has been used in the track of the "Main Line" material and labor as follows.

1503	1,515½ tons re-rolled iron rails, costing	.....	$22,767 90
	415½ " steel rails, "	.....	18,836 48
107,425	pounds splices, "	.....	1,740 05
21,313	" bolts, "	.....	519 09
52,299	" spikes, "	.....	1,067 84
38,865	cross ties, "	.....	14,678 90
Miscellaneous supplies,		"	9,582 94
Labor,		"	94,961 24
	Total	.....	$164,154 53

Which have been charged:

To maintenance of road	.....	$157,024 95
To extraordinary repairs of road	.....	7,129 58
Total	.....	$164,154 53

Of amount charged to extraordinary repairs to road $6,285 is the difference between cost of new iron and steel; the balance is for putting in extra ties, etc., etc.

During the same time there has been used in the track of the "extension" materials and labor as follows:

	176⅛ tons re-rolled iron rails, costing	.....	$3,312 69
13,741	pounds splices, "	.....	280 15
3,463	" bolts, "	.....	107 27
26,872	" spikes, "	.....	702 21
39,319	cross ties, "	.....	1,409 30
Miscellaneous supplies,		"	2,228 39
Labor,		"	36,535 79
	Total	.....	$54,575 80

Which have been charge to maintenace of road.

The amount charged to "extraordinary repairs to bridges," "main line," is for

New truss bridge built over Vermillion river at Danville, at cost of	$5,703 33
New truss over Middle Fork, Vermillion river, at a cost of	3,875 00
Total	$9,578 33

Extra labor repairing pile bridges on the extension charged to Extraordinary repairs bridges $135 21

The amount charged to "maintenance of bridges," "main line," $25,993.17, includes the cost of the following heavy repairs:

1504 Rebuilding six spans Sugar Creek bridge, "A" truss.
" thirty-seven bents Dry Branch.
" approaches, new ties and stringers Wabash bridge.
" pile bridge at Urbana.
" approaches to bridge at Middle Fork.
Building two frame bridges east of Bloomington.
" two pile bridges west of Twin Grove.
Rebuilt Big Slough bridge.
" partly King's Mill bridge.
Re-piled Kickapoo bridge.
Building eight frame culverts.
" twenty-four pile "
" ninety-nine cattle guards.

And the amount charged to "extension," $1,394.89, includes the
Building of four pile bridges.
" of three culverts.
" of eleven cattle guards.

The amount of $1,000 charged to "new equipment" is the amount paid on account of locomotive No. "46."

The following letter of the general superintendent shows in a brief manner the work done and the economy introduced during the past year on the whole property:

"NOVEMBER 30, 1877.

"General George B. Wright, Receiver I., B. & W.:

"DEAR SIR: The total expense of the *road department*, including work on *bridges* and *buildings*, without credits for old material sold, for year ending November 30, 1877, is as follows:

For labor	$151,644 42	
Material	92,404 53	
		$244,048 95

"Same for year ending November 30, 1876:

Labor	$234,015 24	
Material	156,643 38	
		$390,658 92
Showing a reduction of		$146,609 67

"Included in expenses for year ending November 30, 1877, are the following heavy items of new work and repairs: 1,691⅜ 1505 tons re-rolled iron, 415½ tons steel rail, 78,184 ties, with other material for track, rebuilding and heavy repairs on 17 bridges, building 35 culverts, 110 cattle guards, and doing a large amount of ditching.

"The reports of machinery department show a reduction of expenses over previous year of $187,286.36, of which $101,731.94 is on cost and use of material, and also a reduction in the expense per mile run of locomotives of nearly one cent. per mile. The reduction in cost and use of material, amounting to $101,731.94 in machinery department and $64,238.85 in road and bridge departments, making a total of $165,970.79, has in part been made by great care in use of material and in making purchases.

"Our track, bridges, buildings and machinery are now in a very much better condition for business than at any time since your connection with the road. "Yours, respectfully,

"P. PEASE,
"*Gen'l Sup't.*"

Statement of New Materials Used, Extraordinary Repairs, New Equipment, New Work and Right of Way from Dec. 1, 1874, *to Nov.* 30, 1877.

ACCOUNT.	AMOUNT.
Iron, re-rolled, 4,932¼ tons	$107,194 89
Iron, new, 3,824⅜ "	201,196 39
Steel rails, 1,329¾ "	76,186 91
Splices, 578,153 pounds	
Spikes, 383,071 "	
Bolts, 167,125 " 1,128,349 pounds	31,118 44
Ties, 342,702	121,140 06
New equipment	117,143 14
Rebuilding and thoroughly overhauling 46 locomotives	107,832 01
Rebuilding and refitting 23 coaches and 4 chair cars	
Rebuilding and refitting 11 baggage and mail cars	
Building 4 caboose cars	
Rebuilding 629 freight cars	149,350 22
" and overhauling 365 Western Car Co. cars returned	12,499 00
" 49 hand and rubble cars	2,200 00
Building 55 hand and rubble cars	2,487 50
35,188 feet new side track	41,765 79
New drill press	900 00
60 miles track ballasted	36,000 00
12,155 feet fencing	737 00
14 stock yards	1,927 87
Rebuilding 121 bridges and culverts	29,108 11
Building 2 new Howe truss bridges	9,578 33
1506 Building 110 cattle guards	1,501 45
Indianola round-house rebuilt—burned December 1, 1875	6,087 43

Urbana round-house, ten new stalls	$5,670 00
Right of way, main line	28,063 33
" " extension	7,012 89
New store house and boiler shop at Urbana	964 21
Changing 35 platform cars to dumps	6,000 00
New station houses	2,979 50
Total	$1,106,644 47

The above amount has been charged in expenses as follows:

Accounts.

Operating expenses	$418,514 71
Maintenance of road, extraordinary	375,029 88
" cars, "	37,140 02
" motive power, extraordinary	33,122 18
" bridges, "	9,743 94
Right of way	35,076 22
New equipment	55,071 32
" " Oliver Adams' contract	66,489 31
" work	22,856 89
Western Car Company	53,600 00
Total	$1,106,644 47

The new work and improvements have been comparatively small during the past year, and none of the above could have been avoided with a proper care for the property, nor could the road have been operated successfully or economically without them. That the expenditures have been judicious and economical can be readily shown.

Synopsis of the Income of Property under the Receiver, and the Distribution of the same, for the Three Years ending November 30, 1877.

Earnings from all sources		$4,176,587 50
Chargeable against this:		
Total operating expense	$3,122,560 77	
" rental	568,197 83	
		3,690,758 60
Surplus or net earnings		485,828 90
Amount realized on receiver's certificates		339,175 64
Total received from surplus and certificates		825,004 54

1507 *Amounts Expended as per former Detail Statements.*

For extraordinary repairs	455,036 02	
For new work	22,856 89	
For right of way	35,076 22	
For new equipment	121,560 63	
For Illinois taxes	41,703 26	
Receiver's certificates paid	146,750 64	
		822,983 66
Surplus		2,020 88

Receiver's Certificates.

There are now outstanding the following receiver's certificates, issued under specific orders of the court:

For iron or steel rails	$90,000 00
For pay rolls and supplies	30,000 00
For payment of taxes in Illinois	70,000 00
For payment of new cars, T-H. Car Works	2,425 00
Total certificates outstanding	$192,425 00

The certificates issued for the purchase of iron or steel rails are the renewal of a balance of the first issue of $160,000 for that purpose, none of which are now due.

The financial condition of the trust was never so good as at the present time, *and notwithstanding the general depression in business, and small earnings arising from poor crops, low rates of transportation and bad weather,* not a single month for three years has there been a failure to pay every employe his wages for the preceding month. Supplies and materials have been purchased at the lowest market price, and prompt payment made at the time promised.

All of which is respectfully submitted.

GEO. B. WRIGHT, *Receiver.*

1511 EXHIBIT No. 5.

INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY.

GEORGE B. WRIGHT, *Receiver.*

Cash Balance Sheet for the Year ending November 30, 1877.

To balance, December 1st, 1876	$24,576 08	By amount of Vouchers paid	$711,835 58
To cash received from Agents	1,171,656 23	" " " Pay rolls paid	558,948 67
" " Foreign R.	140,177 78	" " " Paid foreign roads	147,862 28
" " U. S. Gov.	24,936 69	" " " Paid Ind. & Co.'s	434 50
" " U. S. Ex.	8,191 62	" " " Paid I., B. & W. R. C.	301 80
" " Ind. & C.	26,764 73	" " " Paid Rec's Cerf's	273,638 00
" " Mat'l sold	29,654 26	" " " Int. on Recv's cer'fs.	13,325 96
" " Miscel'n's	7,580 72	" Balance	73,523 23
" " Fr't vouch	8,364 11		
" " I. B. & W. R.	51 87		
" " Rec's cer'fs.	337,915 93		
	1,779,870 02		1,779,870 02
Trial balance December 1, 1877	73,523 23		

EXHIBIT No. 6.

Statement of Exchange of Earnings between Main Line and Extension for Year ending November 30, 1877.

Main Line Earnings from Extension Points.

Months.	Freight.	Passenger.	Total.
December, 1876	$20,763 65	$482 81	$21,246 56
January, 1877	8,215 34	374 66	8,590 00
February, "	7,644 19	234 67	7,878 86
March, "	5,809 99	208 93	6,018 92
April, "	11,755 00	181 61	11,936 61
May, "	14,370 37	339 88	14,710 25
June, "	6,569 03	286 73	6,855 76
July, "	10,731 74	289 29	11,021 03
August, "	14,412 84	686 23	15,099 07
September, "	6,470 34	462 15	6,932 49
October, "	10,012 57	391 92	10,404 49
November, "	4,843 90	302 61	5,146 51
Total	$121,599 06	$4,241 49	$125,840 55

Extension Earnings from Main Line Points.

Months.	Freight.	Passenger.	Total.
December, 1876	$577 57	$113 05	$690 62
January, 1877	403 08	130 40	533 48
February, "	387 15	140 15	527 30
March, "	760 76	163 20	924 96
April, "	441 01	64 10	505 11
May, "	339 14	227 65	566 79
June, "	354 53	105 83	460 36
July, "	266 99	63 88	330 87
August, "	441 48	73 75	515 23
September, "	567 76	160 68	728 44
October, "	713 06	131 36	844 42
November, "	540 88	225 75	766 63
Total	$5,793 41	$1,599 80	$7,393 21

Earnings to main line in excess of earnings to extension from main line, $118,447.34.

MAIN LINE.

Earnings and Expenses of the Indianapolis, Bloomington and Western Railway for Fiscal Year ending November 30, 1877.

EARNINGS.	1876. December.	1877. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
Freight	69,953 11	52,214 08	48,708 18	43,512 56	62,335 09	57,434 26	42,049 68	43,869 77	72,328 58	68,602 35	68,479 61	43,168 74	672,656 01
Passenger	26,753 58	23,977 95	27,340 40	30,023 62	25,112 07	25,046 63	24,998 24	21,068 22	33,233 31	35,015 75	33,172 23	25,367 94	331,109 94
Express	759 87	533 30	531 19	566 83	590 33	586 40	555 64	482 45	597 26	601 68	631 16	560 02	6,996 13
United States Mail	1,702 91	1,702 90	1,702 91	1,702 91	1,702 90	1,697 91	1,702 89	1,702 90	1,702 90	1,605 05	1,702 90	1,702 90	20,331 98
Chair Cars	276 27	251 33	261 15	322 17	323 83	254 38	312 79	192 75	448 30	419 25	439 75	301 00	3,804 97
Miscellaneous	12,698 61	8,365 36	10,290 50	6,688 37	6,872 67	8,285 51	7,379 84	4,515 38	11,903 72	13,145 67	6,372 58	6,479 15	102,997 36
Total	112,144 35	87,044 92	88,834 33	82,816 46	96,936 89	93,305 09	76,999 08	71,831 47	120,214 07	119,389 75	110,798 23	77,581 75	1,137,896 39

EXPENSES.	1876. December.	1877. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
Advertising	35 38	114 10	123 65	137 58	82 00	139 47	61 20	289 10	3 25	153 20	199 15	52 12	1,390 20
Agencies (Foreign Freight)	450 94	354 70	451 57	415 66	743 19	615 43	589 00	366 71	660 77	547 60	580 14	489 98	6,265 69
Agencies (Foreign Passenger)	529 75	518 13	547 48	557 49	480 63	521 20	520 38	545 53	487 78	468 88	377 63	414 98	5,969 86
Chair Cars (Expenses)	252 96	287 83	380 71	135 71	141 94	207 19	186 13	233 34	428 50	170 76	271 55	199 25	2,895 87
Conductors, Baggagemasters and Brakemen	6,143 32	5,994 40	5,367 50	5,445 95	3,356 65	6,155 80	5,354 00	4,938 85	6,372 95	6,149 70	6,485 61	5,118 60	69,883 33
Damage to Persons and Baggage	45 00					22 75	5 00				71 50		1 25
Engineers and Firemen	6,285 85	5,978 49	5,906 75	5,476 50	6,211 95	5,874 85	5,192 30	4,554 85	5,922 05	5,567 35	5,805 90	4,768 55	66,545 39
Engine Houses, M. S., T. T. Exp. and Rep'rs	967 40	51 60	40 70	46 20	90 02	259 56	30 80	8 50	6 30	139 15	83 35	198 52	1,931 10
Fuel and Water Stations, Exp. and Rep's	1,011 03	1,098 08	3,446 39	1,547 92	1,008 68	911 64	1,064 99	858 54	1,006 81	913 78	1,106 30	844 75	14,818 91
Freight Correction	1,372 83	1,580 02	713 94	952 15	912 03	1,740 63	772 84	713 50	2,340 04	635 74	357 43	2,957 75	15,048 90
Fuel for Locomotives	7,256 72	5,384 65	4,224 15	5,212 60	5,986 00	5,813 80	4,734 00	3,255 20	4,987 43	5,420 68	5,586 00	4,642 36	62,483 59
General Expenses	2,983 71	3,451 95	2,805 31	3,073 31	2,886 74	2,786 29	2,791 32	2,884 24	2,762 08	24,313 25	4,092 70	4,045 45	58,876 35
Griggs House (repairs of)	48 00	25 50	102 45	12 80	51 15	57 20	75 57	58 30	35 25	61 81	69 25	52 45	649 73
Insurance	1,493 97	120 00	60 00	60 00			673 50		529 65	377 29			3,314 41
Interest and Discount	2,549 63	2,154 84	477 06	3,590 89	1,012 72	295 67	3,694 37	1,676 17	1,008 62	1,371 15	875 45	2,441 35	20,147 92
Loss and Damage (Freight)	144 71	487 92	144 11	90 29	43 56	209 64	92 36	91 71	187 00	378 69		30 68	1,909 67
Legal Expenses	801 22	319 75	342 80	422 50	520 75	480 75	705 50	214 25	378 00	1,153 95	395 85	1,555 50	7,292 82
Maintenance of Cars	2,306 97	1,388 67	3,430 18	2,274 30	1,785 09	2,867 42	2,236 23	2,425 89	2,820 09	1,853 39	3,499 25	1,703 59	28,591 07
Maintenance of Rensed Cars	2,056 00	1,992 80	4,393 46	3,676 70	5,220 24	2,477 45	1,483 52	964 70	4,350 40	1,730 60	1,567 33	1,476 68	31,889 88
Maintenance of Motive Power	4,454 92	7,693 86	4,755 83	6,702 14	6,682 92	8,248 63	3,552 86	4,306 81	6,563 10	9,416 40	4,878 22	6,148 39	70,404 08
Maintenance of Road	5,889 48	11,907 39	13,799 08	16,313 68	13,101 56	14,500 92	17,590 47	12,095 27	13,237 16	12,253 70	12,103 45	14,172 79	157,024 95
Maintenance of Telegraph	114 55	109 50	107 50	116 30	107 50	112 25	105 00	105 00	111 25	147 80	112 25	111 60	1,360 50
Maintenance of Fences			351 87	125 00	505 25	139 25	288 39	293 71	307 15	146 98	285 39	128 07	2,571 06
Maintenance of Buildings	56 49	59 85	183 90	230 85	27 80	123 38	71 05	33 62	77 15	71 19	99 36		1,034 64
Maintenance of Bridges	1,011 45	1,427 47	1,301 24	1,044 05	1,799 71	2,569 87	2,186 89	2,189 77	2,227 20	1,776 81	3,278 74	5,199 97	25,993 17
Miscellaneous		767 40		5 00		250 00		150 00	59 90	250 00			1,482 30
Printing and Stationery	393 98	464 22	641 24	634 72	348 53	678 75	442 20	305 86	483 52	389 64	544 18	807 80	6,134 64
Passenger Correction	254 75	287 60	394 30	414 55	383 90	486 30	320 00	381 75	493 90	620 10	576 10	520 85	5,134 10
Station Service	5,756 63	4,860 82	5,607 11	5,564 81	5,668 17	5,360 55	5,331 78	4,882 60	5,714 85	5,542 38	5,879 45	5,733 91	65,803 06
Stock Killed	335 30	479 55	338 80	265 00	189 25	30 75	130 00	15 00	353 35	88 50	527 75	365 00	3,118 25
Train Service	1,680 34	1,980 60	2,252 10	2,026 65	1,433 32	1,874 24	1,788 78	1,457 70	1,534 73	1,256 28	2,635 17	1,057 11	21,577 02
Telegraph Service	1,802 54	1,772 30	1,729 73	1,090 35	1,759 81	1,748 37	1,668 61	1,477 90	1,486 21	1,458 19	103 15	1,596 21	17,753 37
Taxes		234 45	4,981 98	80 35	112 00		3 30		142 48		3,476 81		9,031 37
Total Operating Expenses	58,485 82	63,348 44	68,382 89	67,751 00	65,553 06	67,560 00	63,753 34	51,754 37	67,578 92	81,824 94	65,901 41	66,434 26	788,328 46
COST.	52.15 p. ct.	72.77 p. ct.	77.00 p. ct.	81.80 p. ct.	67.28 p. ct.	72.41 p. ct.	85.39 p ct.	72.07 p. ct.	56.21 p. ct.	68.61 p. ct.	59.47 p. ct.	85.63 p. ct.	69.28 p. ct.
Chargeable to Income Account but Not Operating Expenses.													
Car Rental	7,580 00	7,580 00	9,580 00	7,057 31	5,209 00	5,003 00	5,c00 00	5,000 00	5,000 00	4,112 34	4,000 00	3,990 00	69,111 65
Locomotive Rental	1,050 00												1,050 00
Track Rental	3,852 91	3,756 29	3,475 57	2,851 34	4,856 41	4,305 87	3,424 85	3,300 32	4,471 94	4,343 02	4,818 93	3,888 09	48,345 54
Total	12,482 91	11,336 29	13,055 57	10,908 65	10,065 41	9,308 87	8,424 85	8,300 32	9,471 94	8,455 36	8,818 93	7,878 09	118,507 19
Total to Income Account	70,968 73	74,684 73	81,438 46	78,659 65	75,618 47	76,868 87	72,178 19	60,054 69	77,050 86	90,280 30	74,720 34	74,312 35	906,835 64
Net	41,175 62	12,360 19	7,395 87	4,156 81	21,318 42	16,436 22	4,820 89	11,776 78	43,163 21	29,109 45	36,077 89	3,269 40	231,060 85
Deficit													
IMPROVEMENTS AND BETTERMENTS TO PROPERTY.													
Right of Way	2,204 05	1,034 80			1,039 05	500 00			102 00	1 25		500 00	5,381 15
New Work	1,167 92	162 68		60 30	270 00								1,660 90
New Equipment					500 00	500 00							1,000 00
New Equipment (Oliver Adams' Contract)	4,485 83	4,400 00	4,436 29	4,467 90	4,510 05	4,215 00	4,215 00	4,215 00	4,135 97	4,687 42	4,456 36	4,328 80	52,613 62
Extraordinary Repairs to Road	189 92		654 66			1,500 00	1,500 00	1,500 00	1,785 00				7,129 58
Extraordinary Repairs to Bridges		5,733 73	3,875 00										9,608 73
Total	8,047 72	11,391 21	8,965 95	4,528 20	6,319 10	6,715 00	5,715,00	5,715 00	6,022 97	4,688 67	4,456 36	4,828 80	77,393 98
Grand Total of all Expenses	79,016 45	86,075 94	90,404 41	83,187 85	81,937 57	83,583 87	77,893 19	65,769 69	83,073 83	94,968 97	79,176 70	79,141 15	984,229 62

NOTE.—Full-faced figures show a credit to the Account for the month in which they appear.

EXHIBIT No. 2.

EXTENSION.

EARNINGS AND EXPENSES OF THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY FOR THE FISCAL YEAR ENDING NOVEMBER 30, 1877.

EARNINGS.	1876. December.	1877. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
Freight	9,433 14	7,988 08	6,830 32	7,910 89	10,427 75	10,456 29	5,348 20	5,203 77	9,971 86	7,555 22	7,763 81	5,201 20	94,088 53
Passenger	3,985 17	3,457 52	3,681 88	3,889 86	3,301 10	3,319 03	2,535 55	2,949 25	4,226 51	3,411 54	3,413 91	3,452 44	42,623 76
Express	92 26	64 31	91 10	106 99	85 60	75 94	81 16	77 16	106 14	89 65	74 47	67 95	1,012 73
United States Mail	549 23	549 23	109 85	494 31	494 31	494 31	494 31	494 31	394 31	494 31	456 43	494 31	5,619 22
Total	14,059 80	12,059 14	10,713 15	12,402 05	14,308 76	14,345 57	9,459 22	14,798 82	14,798 82	11,548 72	11,708 62	9,215 90	143,344 24

EXPENSES.	1876. December.	1877. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
Agencies (Foreign Freight)	1 58		99	3 00	44 49	6 95	35		1 77	8 31	10 13	3 17	80 74
Conductors, Baggagemasters, and Brakesmen	681 95	698 20	640 40	695 50	796 45	844 85	705 60	665 75	910 05	850 85	889 90	795 50	9,175 00
Damage to Persons and Baggage				7 00							71 50		78 50
Engineers and Firemen	812 05	816 30	826 25	674 80	930 00	1,016 90	690 65	799 25	1,072 80	902 55	1,016 95	791 00	10,349 50
Engine-houses, M. S., T. T. Exp. & Rep'rs of	39 01	10 50	11 45	3 80	34 34	39 30	4 90	12 18		7 65	6 35	7 55	177 03
Fuel and Water Stations, Exp. & Repairs of	293 52	249 65	299 10	286 41	249 65	244 45	261 40	216 28	249 15	250 82	349 79	250 90	3,201 12
Freight Correction	2 44	180 86	4 76	12 76	19 69	4 22	9 92			27 96	22	47 37	310 20
Fuel for Locomotives	1,304 50	956 65	900 00	884 70	1,116 40	1,297 24	787 88	712 84	1,246 88	951 52	970 08	756 12	11,884 81
General Expenses	798 00	914 64	882 55	895 65	826 40	860 99	845 50	828 68	816 38	14,534 52	1,314 80	1,336 67	24,854 78
Insurance							243 00						243 00
Loss and Damage (Freight)	67	2 15	1 28			4 83	1 03					16	10 12
Legal Expenses	480 00	90 00	90 00	90 00	100 00	250 00	90 00	90 00	226 50	96 65	109 12	1,017 00	2,790 17
Maintenance of Cars	350 59	529 80	498 68	202 54	412 95	528 68	370 10	358 23	839 94	723 16	1,274 30	378 16	6,557 13
Maintenance of Motive Power	749 72	726 06	568 33	650 04	759 56	675 38	466 95	436 46	763 80	617 55	1,556 20	1,454 04	9,394 09
Maintenance of Road	3,127 95	2,501 18	4,775 40	3,555 20	5,698 34	3,820 10	8,315 95	3,997 00	3,266 02	4,745 22	4,913 40	5,860 04	54,575 80
Maintenance of Telegraph	32 25	32 50	32 50	32 50	32 50	32 50	35 00	35 00	18 75	18 75	18 75	19 25	340 25
Maintenance of Fences	48 40		104 80	15 52	26 05			72 40	63 15	81 98		37 35	449 65
Maintenance of Buildings	33 60	4 90	20 40			116 95	10 30		6 25	351 47	100 35	19 60	663 82
Maintenance of Bridges	106 71	173 15	611 15	105 95	17 75	34 05	17 30	67 03	48 00	84 45	38 40	30 35	1,394 89
Printing and Stationery	116 45	171 99	175 56	284 31	168 09	180 74	109 86	88 00	124 60	102 12	135 13	133 10	1,889 95
Station Service	866 65	779 92	789 60	751 63	987 03	1,235 25	705 68	681 03	846 30	829 43	610 34	762 26	9,845 12
Stock Killed	8 45	78 20	2 95	77 75	34 50				20 00			102 00	323 85
Train Service	342 90	374 30	380 19	372 14	456 29	540 56	339 31	569 71	437 57	510 50	521 42	300 43	5,145 32
Telegraph Service	339 25	343 57	344 50	342 82	338 62	342 10	343 97	337 92	389 80	383 57	387 62	380 09	4,273 83
Taxes							185 97				6 50		192 47
Total Operating Expenses	10,537 54	9,634 52	11,960 84	10,004 02	13,019 10	12,116 64	14,540 62	9,967 76	11,347 71	26,079 03	14,301 25	14,602 11	158,201 14
COST.	74.94 p. ct.	80.00 p. ct.	111.7 p. ct.	81.39 p. ct.	90.98 p. ct.	84.46 p. ct.	154.00 p. ct.	114.25 p. ct.	76.67 p. ct.	225.81 p. ct.	122.14 p. ct.	158.44 p. ct.	110.36 p. ct
Chargeable to Income Account but not Operating Expenses.													
Use of Cars	1,456 00	1,422 29	1,216 91	1,579 65	2,012 00	2,077 62	1,390 09	1,239 11	1,596 88	1,369 44	1,460 64	1,018 44	17,845 73
Use of Locomotives	895 00	810 00	840 00	810 00	875 00	945 00	780 00	910 00	945 00	875 00	810 00	780 00	10 775 00
Total	2,351 60	2,232 29	2,056 91	2,389 65	2,887 00	3,022 62	2,170 09	2,149 11	2,541 88	2,244 44	2,276 64	1,798 44	28,120 73
Total to Income Account	12,889 14	11,866 81	14,017 75	12,483 67	15,906 16	15,139 26	16,710 71	12,116 87	13,889 59	28,323 47	16,577 89	16,400 55	186,321 87
Net	1,170 63	192 33							909 23				
Deficit			4,304 60	81 62	1,597 40	793 62	7,251 49	3,392 38		16,774 75	4,869 27	7,184 65	42,977 63
IMPROVEMENTS AND BETTERMENTS TO PROPERTY.													
Right of Way	1,341 50					100 00					39 04		1,402 46
New Work	591 49												591 49
Extraordinary Repairs to Bridges	20 71		114 50										135 21
Total	1,953 70		114 50			100 00					39 04		2,129 16
Grand Total of all Expenses	14,842 84	11,866 81	14,132 25	12,483 67	15,906 16	15,239 26	16,710 71	12,116 87	13,889 59	28,323 47	16,538 85	16,409 55	188,451 03

NOTE.—Full-faced figures show a credit to the Account for the month in which they appear.

EXHIBIT No. 3.

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY.

GEORGE B. WRIGHT, RECEIVER.

Comparative Statement of Earnings for Years ending November 30, 1876 and 1877.

	1875. December.	1876. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
EARNINGS, Main Line	126,309 12	118,616 43	126,143 06	93,680 56	115,349 80	120,161 61	118,995 53	79,899 02	127,140 35	121,391 19	133,091 43	91,242 44	1,372,020 54
" Extension	14,719 01	16,451 28	21,004 90	13,093 78	18,696 62	15,558 62	15,152 47	12,331 16	18,992 30	14,024 93	15,943 46	10,428 82	186,397 35
Totals	141,028 13	135,067 71	147,147 96	106,774 34	134,046 42	135,720 23	134,148 00	92,230 18	146,132 65	135,416 12	149,034 89	101,671 26	1,558,417 89
	1876.	1877.											
EARNINGS, Main Line	112,144 35	87,044 92	88,834 33	82,816 46	96,636 89	94,305 09	76,999 08	71,831 47	120,214 07	119,389 75	110,798 23	77,581 75	1,137,896 39
" Extension	14,059 80	12,059 14	10,713 15	12,402 05	14,308 76	14,345 57	9,459 22	8,724 49	14,798 82	11,548 72	11,708 62	9,215 90	143,344 24
Totals	126,204 15	99,104 06	99,547,48	95,218 51	111,245 65	107,650 66	86,458 30	80,555 96	135,012 89	130,938 47	122,506 85	86,797 65	1,281,240 63
Increase													
Decrease	14,823 98	35,963 65	47,600 48	11,555 83	22,800 77	28,069 57	47,689 70	11,674 22	11,119 76	4,447 65	26,528 04	14,873 61	277,177 26

EXHIBIT No. 4.

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY.

GEORGE B. WRIGHT, RECEIVER.

Balance Sheet of General Ledger, November 30th, 1877.

Income account, main line	134,011 11	
Income account, extension	6,405 61	
		140,416 72
To Income, November 30, 1877.		
Operating expenses, main line, November 30, 1876, to November 30, 1877	788,328 45	
Rentals, main line	115,507 19	
Extraordinary repairs to road, main line	7,129 58	
Extraordinary repairs to bridges, main line	9,608 73	
Operating expenses, extension, November 30, 1876, to November 30, 1877	158,201 14	
Rentals, extension	28,120 73	
Extraordinary repairs to road, extension	135 21	
Total to income account		1,110,031 03
* Illinois taxes, main line, 1876 and 1875	24,323 86	
Illinois taxes, extension, 1876 and 1875	17,379 40	
		41,703 26
Right of way, main line, November 30, 1876	22,682 18	
Right of way, main line, November 30, 1877	5,381 15	
		28,063 33
Right of way, extension, November 30, 1876	5,610 43	
Right of way, extension, November 30, 1877	1,402 46	
		7,012 89
New work, main line, November 30, 1876	18,429 05	
New work, main line, November 30, 1877	1,660 90	
		20,089 95
New work, extension, November 30, 1876	2,175 45	
New work, extension, November 30, 1877	591, 49	
		2,766 74
New equipment, main line, November 30, 1876	54,071 32	
New equipment, main line, November 30, 1877	1,000 00	
		55,071 32
New equipment, O. Adams's contract, 1876	13,875 69	
New equipment, O. Adams's contract, 1877	52,613 62	
		66,489 31
Western Car Company, unadjusted account		3,751 85
Materials on hand for current operation		48,636 19
Cashier and paymaster		73,523 23
Local agents and conductors		21,755 35
United States Express Company		107 00
U. S. Government, P. O. Department		4,394 43
Due from other roads and individuals		47,168 19
Indianapolis, Bloomington and Western Railway Co		4,552 64
		$1,675,533 63

Earnings, main line, Nov. 30, 1876, to Nov. 30, 1877	1,137,896 39	
Earnings, extension, Nov. 30, 1876, to Nov. 30, 1877	143,344 24	
Total to income account		1,281,240 63
Accounts payable		201,868 00
Receiver's certificates, iron and steel rails	90,000 00	
Receiver's certificates, special	30,000 00	
Receiver's certificates, T. H. Car and Mf'g Co	2,425 00	
Receiver's certificates, main line tax	45,000 00	
Receiver's certificates, extension tax	25,000 00	
		192,425 00
		$1,675,533 63

* Illinois taxes divided as per assessments by townships through which each line is located, and where both lines are in same township, taxes divided on a mileage basis.

1512 EXHIBIT No. 7.

INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY.

Statement of Passenger Earnings and Number of Passengers Carried for Year Ending November 30, 1877.

SOURCE.	Earnings.	Number of Passengers Carried.	Passengers Carried One Mile.	Earnings per Passenger per Mile.
Way	309,015 77	230,532½	9,765,315	.03 16/100
Through	64,717 93	10,548½	2,067,734	.03 13/100
Total	373,733 70	241,081	11,833,049	.03 15/100

Average distance traveled by each passenger..... 49 08/100 miles.

Average fare paid by each passenger..... $1.55

[Folios 1513, 1514, and 1515 erased in original copy.]

1516 Third Annual Report of Receiver to U. S. Courts.

Fourth Annual Report of Geo. B. Wright, Receiver, filed with the courts January Term, A. D. 1879.

UNITED STATES OF AMERICA,
Southern District of Illinois and District of Indiana.

In the Circuit Court of each of said Districts.

MALCOLM C. TURNER et al.
vs.
THE INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY COMPANY et al. } In Chancery.

To the Honorable Judges of said Court:

The undersigned, receiver in the above entitled cause, would respectfully report the operations of the Indianapolis, Bloomington & Western Railway for the year ending November 30, 1878, and subsequently.

The following exhibits contain a statement of the operations and management of the trust:

Exhibit No. 1.

Earnings and expenses of "main line."

Exhibit No. 2.

Earnings and expenses of "extension."

Exhibit No. 3.

Balance sheet of receiver's general ledger.

In this sheet is a charge of $126,480.97 for Illinois taxes.

This charge belongs properly to income account, but as no division has been agreed upon or fixed between the "main line" and
1517 "extension," the auditor could not properly enter it in that account. The division, as stated in the note to the table, is based upon assessment made in each township through which the road runs, and where both lines are in the same township the division is made on mileage.

Of the amount paid on Illinois taxes, $100,000 was provided for by the sale of receiver's certificates authorized by the court and the balance paid out of current revenue.

Payment was made only on tangible property tax, all of which has been paid, except the tax of 1873 assessed against the "extension," amounting to $8,421.70.

Exhibit No. 4.

Cash balance sheet of receiver.

Exhibit No. 5.

Exchange of earnings between "main line" and "extension," and *vice versa*.

Exhibit No. 6.

Detailed statement of tonnage forwarded from all stations, and revenue derived from same.

Exhibit No. 7.

Statement of passenger earnings, and number of passengers carried.

Exhibit No. 8.

Mileage account.

Exhibit No. 9.

Performance of locomotives.

Miscellaneous Matters.—The Results of the Year.

The gross earnings for the year have been increased about $60,000 over the previous year, but the cost of maintaining the prop-
1518 erty has been considerably increased, by reason of additional repairs rendered necessary from natural wear and decay. The following letter of the general superintendent, written after a careful inspection of the road, will give a pretty clear idea of what has been done by way of improvements and repairs during the year, and what will be needed for the year to come.

The improvement in gross earnings may be attributed, in a great measure, to the organization and maintenance of pools at most of the crossings and intersections with other roads. This has, in nearly every case, resulted in the strict observance of tariff rates, and an increased confidence between the managers of the different lines. While the through rates have been extremely low, not averaging over 70-100 of a cent per ton per mile, being only about one-third the rate which prevailed four years ago, the local rates have been quite uniform and generally sustained.

One great obstacle to the economical management and operation of this line of road is its steep grades. The utmost capacity of an ordinary freight engine over the entire "main line," between Pekin and Indianapolis, is fifteen to eighteen loaded cars, or about one hundred and eighty to two hundred tons of freight. The grades between Urbana and Indianapolis could be reduced at a cost of about $100,000, so that a single engine could haul double this amount of freight between those two points. The two steepest grades on main line west of Urbana are found at Pekin and in the neighborhood of Bloomington, at which places a helping engine could be advantageously employed, at less expense per annum than the interest on the cost of changing the line and grades. The grades on the extension are few and light.

Letter of Gen. Pease.

1519 INDIANAPOLIS, IND., December 17, 1878.

Gen'l GEORGE B. WRIGHT, Receiver:

DEAR SIR: I enclose herewith a detailed statement of material and labor needed for improvements and repairs for the year ending Nov. 30, 1879.

Bridges, buildings, etc., main line	$39,986 64
Bridges, buildings, etc., extension	7,864 70
Fencing and fence-posts, extension	587 50
Fencing and fence-posts, main line	2,350 00
Track material for main line and extension (main line, $68,533.40; extension, $30,404.18)	98,927 58
Total	$149,716 42

I find on careful examination, an increase of decay in timber in excess of the year 1877, the life of the timber being gone. The most of the material called for will be needed within the next eight months. During the past year the following repairs and improvements have been made: On the main line, 602 feet of Howe truss bridges, 1,584 feet framed bridges, 1,544 feet piled bridges, 46 culverts, 181 cattle guards, 5 stock pens, 33 hand-car houses, 1 water tank and Clermont depot has been re-built or repaired, and Fithian depot, which was destroyed by fire, has been re-built new. On the extension, 278 feet piled bridges, 17 culverts, 5 cattle guards, 1 stock pen, and 15 hand-car houses have been either repaired or re-built. I would recommend the re-building of Danville depot, the raising and repairing of Pekin depot, as these depots are in bad condition at present, and need repairing very much. The depot and platform at Bloomington need raising, the present height of platform being too low for the rapid handling of baggage, our passenger trains being frequently detained there from five to fifteen minutes loading and unloading baggage. At Urbana shops there have been 10 engines re-built, 8 engines have undergone heavy repairs, 11 coaches general repairs, 4 baggage and smoking cars repaired, and 188 box

cars, 13 stock cars, 72 coal cars, 24 flat cars and 8 caboose cars have been re-built. There have been on the east division 4,964 feet new side tracks laid, and on west division 1,490 feet new side tracks, making a total of 6,454 feet new side tracks laid on main line, and also 1,537 feet new side tracks on the extension. There has also been quite a large amount of ditching done on both main line and extension.

Respectfully,

P. PEASE, *Gen'l Sup't.*

Operations for Four Years.

The following statements will show the operations of the road and the results for the four years from December 1, 1874, to November 30, 1878, and the present financial condition of the trust:

1520 *Analysis of Revenues and Unpaid Amounts, for four years, ending November 30, 1878, and how the same has been used.*

REVENUE, ETC.		AMOUNT.
Earnings from all sources		$5,518,910 57
Receiver's certificates, iron and steel rails	$160,000 00	
Receiver's certificates, spikes, etc	11,500 00	
" real estate	33,655 29	
" special loan	30,000 00	
" T. H. Car Co.	33,565 00	
" tax, main line	47,000 00	
" " extension	25,000 00	
" " special	28,000 00	
" miscellaneous	457 35	
		369,175 64
Unpaid vouchers and pay-rolls		137,883 31
Total		$6,025,969 52
CONTRA.		
Operating expenses	$4,188,821 82	
Rentals	696,920 91	
Extraordinary repairs	455,545 44	
Right of way	38,655 78	
New work	22,866 89	
New equipment	172,453 82	
		$5,575,264 66
Illinois taxes paid	$126,480 97	
Interest on tax certificates	350 00	
		$126,830 97
Receiver's certificates paid		180,175 64
Materials on hand		39,306 75
Cash in hands of cashier		57,862 88
" " local agents		24,211 64
Due from individuals and companies (balance)		22,316 98
Total		$6,025,969 52

Statement of New Materials Used, Extraordinary Repairs, New Equipment, New Work and Right of Way, Dec. 1, 1874, to Nov. 30, 1878.

ACCOUNTS.	AMOUNT.
Iron, re-rolled, 6,780¼ tons	$138,482 58
Iron, new 3,824⅓ "	201,196 39
Steel rails 1,958⅞ "	102,891 51
Splices, 683,228 pounds.	
Spikes, 439,321 "	
Bolts, 216,611 " 1,339,160 pounds	35,459 43
1521	
Ties, 490,838	$167,000 59
New equipment	168,036 33
Rebuilding and thoroughly overhauling 46 locomotives.	141,196 68
Rebuilding and refitting 23 coaches and 4 chair cars	
Rebuilding and refitting 15 baggage, mail and smokers.	
Building 4 caboose cars	
Rebuilding 854 freight cars	184,136 79
Rebuilding and overhauling 417 Western Car Co.'s cars, returned	16,659 00
Rebuilding 49 hand and rubble cars	2,200 00
Building 55 hand and rubble cars	2,487 50
43,179 feet new side track	51,195 17
New drill press	900 00
60 miles track ballasted	36,000 00
12,155 feet fencing	737 00
25 stock yards	3,210 67
Rebuilding 224 bridges and culverts	48,453 52
Building 3 new Howe truss bridges	20,578 33
Building 295 cattle guards	2,503 04
Indianola round house—burned December 1, 1875	6,087 43
Urbana round house, ten new stalls	5,670 00
Right of way, main line	31,603 95
Right of way, extension	7,051 83
New store house and boiler shop at Urbana	964 21
Changing 35 platform cars to dumps	6,000 00
New station houses	3,446 82
New turn tables	686 65
New hand car houses, 49	2,533 87
New coal houses, 9	405 80
Total	$1,387,775 09

The above amount has been charged in expenses as follows:

ACCOUNTS.	AMOUNT.
Operating expenses	$644,653 16
Maintenance of road, extraordinary	375,539 30
Maintenance of cars, extraordinary	37,140 02
Maintenance of motive power, extraordinary	33,122 18

Maintenance of bridges, extraordinary	$9,743 94
New equipment	55,071 32
New equipment, Oliver Adams' contract	117,382 50
New work	22,866 89
Western Car Company	53,600 00
Right of way	38,655 78
Total	$1,387,775 09

Comparative Statement of Liabilities and Assets of George B. Wright, Receiver, and others Chargeable to the Trust, December 1, 1877, and December 1, 1878.

LIABILITIES.	DECEMBER 1, 1877.		DECEMBER 1, 1878.	
Unpaid Vouchers	$156,340 56		$91,995 13	
Unpaid Pay Rolls	45,527 44		45,888 18	
		$201,868 00		$137,883 31
Receiver's Certificates, Iron	$90,000 00		$64,000 00	
" " Special Tax			28,000 00	
" " " Loan	30,000 00		25,000 00	
" " Main Line Tax	45,000 00		47,000 00	
" " Ext'n " "	25,000 00		25,000 00	
" " T., H. C. & Mf'g Co.	2,425 00			
		$192,425 00		189,000 00
Illinois Taxes, Tangible 1874-5-6-7		71,538 43		
" " Capital Stock, 1874-5		13,155 75		13,155 75
Rogers Locomotive and Machine Works, Award of Special Masters		151,514 79		151,514 79
Rogers Locomotive and Machine Works, rent 16 Locomotives 3⅗ months		13,286 66		13,286 66
TOTAL RECEIVER'S LIABILITIES		$643,788 63		504,840 51
Liabilities running with the property, Oliver Adams' Contract, Gold		188,916 30		138,538 62
TOTAL LIABILITIES		$832,704 93		$643,379 13
ASSETS.				
Amount of Cash on hand		$73,523 23		57,862 88
" due from Local Agents		21,755 55		24,211 64
" " " U. S. Express Co		107 00		155 23
" " " U. S. Government		4,394 43		4,174 70
" " " Individuals & Com'ies		47,168 19		12,102 74
of Material on Hand		48,036 19		39,306 75
" due from Western Car Co		3,751 85		3,751 85
" L., B & W.R'y Co., Claims paid in excess of all receipts		4,552 64		2,132 46
TOTAL ASSETS		$203,888 88		$143,698 25
EXCESS OF LIABILITIES OVER ASSETS		$628,816 05		$499,680 88
OTHER LIABILITIES.				
Illinois Tax, Tangible 1873		$21,660 98		$8,421 70
" " Capital Stock, 1873		82,136 31		82,136 31
Company's Pay Rolls and Vouchers, award of Special Masters		412,140 00		412,140 00
Company's Car Rentals, awards Special Masters		105,480 00		105,480 00
TOTAL OTHER LIABILITIES		$621,417 29		$608,178 01
EXCESS OF ALL LIABILITIES OVER ALL ASSETS		$1,250,233 34		$1,107,858 89
Decrease in excess of all Liabilities over all assets, Dec. 1, 1877, to Dec. 1, 1878				$142,374 45

The foregoing statement of liabilities and assets of the re-
1523 ceiver applies to the whole property, "main" line and "extension."

Of the receiver's certificates ($189,000) $111,000 are against the "main line" and $25,000 are against the "extension." The balance, 53,000, is against the two divisions, to be prorated as may be agreed upon between the parties or determined by the court.

Of the Illinois taxes still unpaid, those of 1874–5 (capital stock) amounting to $13,155.75, and of 1873 (capital stock) amounting to $82,136.31 (total $95,292.08), no division has been made between the two lines. Of the tangible property tax of 1873, still unpaid, amounting to $8,421.70, the whole amount is assessed against the "extension," but is claimed to be subject to adjustment between the two divisions of the road. The total amount of taxes still claimed in Illinois is $103,713.76, of which $95,292.06 is assessed upon the capital stock of the company, which never was, and never can be, of any intrinsic value.

The claim of the Rogers Locomotive and Machine Works amounting to $151,514.79, exclusive of interest, is in judgment against the receiver, but appealed from to the United States Supreme Court.

The claims for back pay, supply bills and car rentals, amounting to $517,620, are also awaiting the decision of the Supreme Court of the United States.

The amount now due on pay rolls and vouchers (137,883.31) is about the usual amount carried over each month. The pay rolls are always necessarily one month in arrears, and supplies are usually purchased on an average of sixty to ninety days.

Of the assets above mentioned ($143,698.25), only about $100,000 are available for the payment of liabilities. The credit for material on hand ($39,306.75) is the ordinary supplies at their cost. The amount due from the Western Car Company ($3,751.85) is an unsettled balance claimed, which may or may not be realized on final settlement. The item of "$2,132.46, I., B. & W. R'y Co., claims paid in excess of all receipts," is the amount paid by the receiver on balance due to connecting roads, on pay rolls, etc., the payment of which was ordered by the court, in excess of collections made by the
receiver on amounts due to the company at the time of the
1524 appointment of the receiver. The amount of old assets collected by the receiver is about $110,000.00.

It will be seen that the following reductions have been made in receiver's liabilities during the past year:

On taxes	$84,779 79
On vouchers	64,345 43
On Oliver Adams' contract for 500 cars	50,377 68
Making a total of these three items of	$199,502 90

While the assets of the receiver have only been diminished during the year about $60,000.

Pay-rolls have been promptly met every month for the four years, and payments for supplies and improvements have been made at the time agreed upon. The only extension of credit has been upon receiver's certificates, some of which have been renewed by authority of the court, but the interest has been fully paid as the certificates matured.

Some complaints have been made, from time to time, that too much money was being expended in improvements and repairs to the property; but no such criticisms have been made by parties who understood the true condition of the property when the receiver was appointed. Every improvement and repair has been made upon the most careful inquiry and investigation of the needs, and solely with a view to the most judicious and economical management of the trust.

The improvements that have been made are of the most permanent character. Bridge timber, ties and other material used are of the very best quality that could be procured, and all the new work done will last from eight to fifteen years.

All of which is respectfully submitted.

GEO. B. WRIGHT, *Receiver.*

EXHIBIT No. 1.

MAIN LINE.

EARNINGS AND EXPENSES OF THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY FOR FISCAL YEAR ENDING NOVEMBER 30, 1878.

EARNINGS.	1877. December.	1878. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Totals.
Freight	51,261 85	75,253,82	54,262 52	69,379 39	56,615 04	63,182 29	48,109 30	50,641 14	81,255 41	69,812 87	64,655 95	58,029 42	742,459 00
Passenger	27,734 57	23,898 41	24,161 85	28,329 07	22,742 34	23,316 24	21,136 15	20,427 87	29,369 17	34,443 98	30,727 71	23,451 69	306,739 05
United States Express	592 07	540 00	480 00	520 00	524 22	540 00	529 75	540 00	610 63	571 94	607 43	576 03	6,635 07
United States Mail	1,702 92	1,702 90	1,702 90	1,702 90	1,702 90	1,702 90	1,702 91	1,617 76	1,617 76	1,617 76	1,617 76	1,617 76	20,009 14
Chair Cars	349 50	373 75	264 75	276 00	292 25	553 00	360 75	538 75	448 75	618 50	1,530 75	389 25	4,996 00
Miscellaneous and Rents	1,138 60	1,525 00	1,045 00	1,245 00	840 00	1,460 00	1,195 00	1,335 00	1,235 00	1,175 00	1,270 00	1,205 00	14,768 60
Mileage	8,011 33	8,903 84	9,979 45	15,038 12	9,230 00	7,076 52	8,046 34	8,480 64	10,383 35	8,871 39	7,928 75	8,238 29	105,848 05
Total	90,793 84	112,257 72	89,896 50	113,490 49	91,946 72	98,430 95	81,080 20	83,581 16	124,920 07	117,111 44	107,435 35	93,507 44	1,204,454 91

OPERATING EXPENSES.	1877. December.	1878. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Totals.
Advertising	37 50	45 00	58 25	118 25	56 00	265 08	120 87	76 52	57 50	281 80	133 15	12 50	1,262 42
Agencies (Foreign Freight)	436 33	507 91	673 03	679 85	576 57	691 62	487 13	320 62	415 05	504 95	474 38	146 55	5,973 99
Agencies (Foreign Passenger)	434 43	397 98	239 17	285 90	288 60	279 97	319 73	279 13	320 53	318 00	316 20	315 53	3,794 97
Chair Cars (Expenses)	208 05	148 26	174 69	155 49	179 24	243 90	139 27	284 83	330 34	237 24	341 66	240 16	2,683 13
Conductors, Baggagemasters and Brakemen	5,508 75	6,390 80	6,161 55	6,530 80	6,326 40	6,414 60	5,626 40	4,927 00	5,593 29	5,751 28	5,646 65	5,531 22	70,408 74
Damage to Persons and Baggage						43 10		60 00			124 05	61 16	288 31
Engineers and Firemen	5,152 65	5,873 60	5,375 95	6,058 80	5,769 65	6,229 30	5,302 30	4,695 75	5,534 15	5,386 15	5,493 10	5,236 30	66,107 70
Engine Houses, M. S. & T. T. Exp. and Rep'rs	386 73	238 85	217 30	104 02	195 60	208 38	193 21	155 60	129 59	346 29	367 66	104 75	2,647 98
Fuel and Water Stations, Exp. and Rep's	1,015 89	916 67	908 92	1,033 94	1,079 03	1,254 21	1,031 12	1,805 55	1,216 42	967 66	1,083 31	1,403 10	13,715 82
Freight Correction	903 73	3,354 59	3,172 74	2,089 45	4,736 64	1,222 22	1,734 71	4,484 89	3,990 16	1,718 83	4,256 38	3,760 29	35,424 63
Fuel for Locomotives	4,715 70	5,610 95	5,545 60	5,224 60	4,812 10	5,128 93	4,118 40	3,613 75	4,415 32	4,745 65	4,609 52	4,793 52	57,3134 04
General Expenses	3,443 94	3,754 52	3,866 80	4,002 86	3,816 52	4,160 16	3,724 05	4,093 31	3,636 20	3,770 44	3,736 60	3,121 79	45,127 19
Griggs House (repairs of)	100 75	28 62	67 75	186 18	263 18	21 14	129 42	66 93	9 40	44 82	15 20	32 46	971 85
Insurance	1,564 45	110 00	115 00	55 00			253 80		413 71	264 96			2,776 92
Interest and Discount	2,968 26	925 37	282 75	2,529 69	724 78	742 17	739 49	529 21	793 00	1,445 61	1,107 45	4,228 71	17,016 49
Indianapolis Transfer Account	1,545 00	1,982 00	1,711 00	2,348 00	1,539 00	2,100 00	1,624 00	1,138 00	1,845 00	1,723 00	1,424 00	1,542 00	20,581 00
Loss and Damage (Freight)	80 11	69 07	78 22	208 79	142 19	110 48	71 58	212 86	78 92	98 24		104 54	1,254 70
Legal Expenses	362 44	318 19	391 86	275 70	307 00	2,980 55	382 45	282 55	352 25	469 60	269 50	279 00	6,671 09
Maintenance of Cars	5,773 49	3,456 65	5,499 32	7,336 78	3,956 72	7,719 78	5,286 35	2,368 48	4,448 30	4,434 97	2,926 46	7,990 97	61,198 24
Maintenance of Rented Cars	1,900 75	970 00	1,588 13	1,999 13	1,491 05	3,422 91	1,485 13	2,844 78	1,288 47	1,402 84	1,449 19	1,083 99	20,926 37
Maintenance of Motive Power	4,173 49	5,812 90	5,515 31	6,240 70	5,706 86	5,781 46	3,558 06	3,694 27	4,317 83	4,910 08	5,031 06	5,438 67	62,080 69
Maintenance of Road	12,451 84	13,604 93	11,795 78	29,527 11	14,215 60	19,265 73	20,719 69	9,460 28	12,189 05	10,668 45	13,399 30	17,210 70	184,508 46
Maintenance of Telegraph	115 45	111 25	118 73	111 25	111 25	127 26	177 63	111 25	114 47	113 54	111 25	113 42	1,476 75
Maintenance of Fences	134 95		84 55	35 70	27 60	321 14	541 70	207 62	218 75	130 56	467 11	386 51	2,556 29
Maintenance of Buildings	479 79	173 56	338 34	356 57	104 55	54 00	187 67	653 35	391 29	122 84	280 35	582 97	3,825 28
Maintenance of Bridges	2,450 25	2,530 25	1,958 42	2,075 10	3,049 27	4,728 52	1,877 62	1,854 79	2,316 16	4,784 03	6,722 30	6,572 62	40,919 33
Miscellaneous		19 50			150 00	56 60		955 00		28 40	128 50	166 50	1,504 50
Printing and Stationery	416 22	746 97	382 90	411 79	592 35	649 70	452 82	429 82	394 96	428 45	621 54	496 32	6,023 87
Passenger Correction	381 85	397 90	371 15	559 90	514 35	412 10	478 20	337 60	498 45	571 55	663 70	515 45	5,702 20
Station Service	5,716 03	4,961 68	5,599 89	6,631 21	5,539 59	5,837 84	5,449 28	4,938 01	5,629 11	5,811 32	6,051 94	6,307 39	68,373 29
Stock Killed	199 00	248 00	294 00	411 00	75 00	276 00	389 00	103 00	287 65	368 00	367 00	130 00	3,147 65
Train Service	1,828 72	2,452 78	2,012 70	2,019 77	1,538 41	2,846 99	1,813 65	1,477 45	1,780 22	1,687 61	2,177 32	2,344 10	24,024 72
Telegraph Service	1,619 51	1,599 05	1,640 99	1,636 76	1,487 37	1,544 12	1,588 54	1,478 92	1,426 02	1,448 49	1,388 25	1,427 75	18,285 77
Taxes			4,975 83	8 00	169 50	1 65					4,028 97		9,183 95
Use of Cars	1,713 66	3,420 18	2,985 20	3,502 48	3,728 55	3,844 12	2,729 62	1,770 46	2,592 06	3,037 12	2,199 71	2,251 01	33,774 17
Profit and Loss					193 58								193 58
Total Operating Expenses	68,215 71	71,238 48	74,221 32	94,750 57	73,509 13	89,045 73	74,532 89	59,711 65	67,043 32	68,022 77	77,412 56	83,931 95	901,646 08
Chargeable to Income Account but Not Operating Expenses.													
Car Rental	3,990 00	3,990 00	3,990 00	3,990 00	3,990 00	3,990 00	3,990 00	3,010 00	3,360 34	3,005 34	3,000 00	3,000 00	43,305 68
Track Rental	3,987 37	4,005 22	5,003 39	5,146 83	4,236 30	4,878 91	3,756 13	2,796 94	3,667 16	3,929 22	3,985 20	3,903 73	49,897 40
Total	7,977 37	8,595 22	8,994 39	9,136 83	8,226 30	8,868 91	7,746 13	5,806 94	7,027 50	6,934 56	6,985 20	6,903 73	93,203 08
Total to Income Account	76,203 08	79,833 70	83,215 71	103,887 40	81,735 43	97,914 64	82,279 02	65,518 59	74,070 82	74,957 33	84,397 76	90,835 68	994,849 16
Net	14,590 76	32,424 02	6,680 79	9,603 09	10,211 32	516 31		18,062 57	50,849 25	42,154 11	23,040 59	2,671 76	209,605 75
Deficit							1,198 82						
IMPROVEMENTS AND BETTERMENTS TO PROPERTY.													
Right of Way	1,876 77	57 65				1 25	1,001 00	1 60	400 00	201 00	1 35		3,540 62
New Work	10 00												10 00
New Equipment (Oliver Adams' Contract)	4,198 14	4,390 58	4,291 22	4,248 80	4,240 54	4,198 14	4,198 14	4,198 14	4,219 86	4,225 19	4,241 26	4,243 18	50,893 19
Total	6,084 91	4,448 23	4,291 22	4,248 80	4,240 54	4,199 39	5,199 14	4,199 74	4,619 86	4,426 19	4,242 61	4,243 18	54,443 81
Grand Total of all Expenses	82,287 99	84,281 93	87,506 93	108,136 20	85,975 97	102,114 03	87,478 16	69,718 33	78,690 68	79,383 52	88 640 37	95,078 86	1,049,292 97

EXHIBIT No. 2.

EXTENSION.

EARNINGS AND EXPENSES OF THE INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY FOR FISCAL YEAR ENDING NOVEMBER 30, 1878.

EARNINGS.	1877. December.	1878. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
Freight	$5,652 58	$9,363 47	$4,928 69	$6,720 86	$6,328 08	$8,641 17	$4,852 06	$7,676 20	$10,262 17	$10,574 56	$8,850 29	$7,029 29	$93,879 52
Passenger	4,113 74	3,722 28	3,871 41	3,518 43	2,759 80	2,657 79	2,458 75	2,536 10	3,274 99	2,878 38	3,387 31	2,356 12	37,445 60
United States Express	74 69	54 89	61 53	48 14	50 91	50 15	43 03	63 50	73 28	50 17	54 46	100 21	724 96
United States Mail	494 31	494 31	494 29	494 31	494 31	474 30	494 31	469 59	469 59	469 58	469 59	469 59	5,808 08
Miscellaneous					10 00								10 10
Total	$10,335 32	$13,635 45	$9,265 92	$13,781 74	$9,643 10	$11,843 41	$7,848 15	$10,745 29	$14,080 03	$13,972 69	$12,761 75	$9,955 21	$137,868 16

OPERATING EXPENSES.	1877. December.	1878. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	Total.
Agencies (Foreign Freight)	$9 94	$4 49	$11 52	$18 43	22 53	$10 44	$3 17	$2 82	$2 78	$2 70	$1 90	$1 55	$112 27
Conductors, Baggage-Masters, and Brakemen	684 50	771 20	647 40	784 70	688 15	687 00	662 90	646 85	691 85	722 50	801 30	761 30	8,539 65
Engineers and Firemen	774 20	926 65	741 75	958 00	831 05	902 70	832 45	842 40	771 30	843 80	1,075 00	847 15	10,348 35
Engine Houses, Machine Shops, Turn Tables, E. R.	50 70	49 05	9 70	30 44	22 27	14 80	9 14	11 52	14 56	17 64	29 18	29 13	308 13
Fuel and Water Stations, E. R.	235 80	305 70	277 06	278 57	416 98	268 93	277 63	335 94	311 75	278 21	442 06	537 01	4,095 70
Freight Correction	58 18	5 54	10	1 35	8 05	106 81	168 47	301 61	480 22	153 30	687 27	612 28	2,581 18
Fuel for Locomotives	719 40	1,003 65	744 30	1,027 50	740 10	793 40	618 40	749 42	706 93	785 75	907 52	816 20	9,702 57
General Expenses	1,291 48	1,276 08	1,357 98	1,152 93	1,365 60	1,457 95	1,254 50	1,301 68	1,181 59	1,182 37	1,136 37	1,506 86	15,063 59
Insurance							181 80						181 80
Interest and Discount												2,000 00	2,000 00
Loss and Damage, Freight	6 30					191 10				6 00			203 40
Legal Expenses	109 91	180 47	174 71	175 21	185 66	2,015 76	195 81	176 56	175 66	189 31	173 16	171 18	4,111 30
Maintenance of Cars	551 15	785 80	529 25	937 99	676 73	785 35	1,269 82	869 55	952 43	951 30	845 81	1,508 11	10,564 73
do Motive Power	1,306 89	1,844 17	1,266 05	666 49	460 57	1,123 15	431 50	396 11	444 29	448 21	460 59	357 89	9,805 71
do Road	3,452 52	3,479 82	3,181 15	6,712 62	8,676 17	5,662 46	4,599 44	6,442 33	5,089 13	7,427 53	7,534 05	5,781 96	68,020 18
do Telegraph	18 75	18 75	18 75	18 75	18 75	18 75	18 75	18 75	18 75	18 75	18 75	18 75	225 00
do Fences	26 85		39 05		1 41	21 40	5 27	8 40	143 71	5 40		6 10	256 69
do Buildings	89 70	32 65	66 90	28 70	15 35	12 90	109 35	237 80	268 93	574 92	802 28	71 91	1,710 69
do Bridges	15 70	34 70	30 15	24 39	42 80	980 57	386 40	212 53	301 34	235 61	12 76	305 58	4,531 93
Miscellaneous								600 00					600 00
Printing and Stationery	109 97	218 55	102 26	108 84	138 60	139 40	111 38	106 50	95 62	95 94	136 13	100 91	1,345 00
Station Service	926 18	941 57	859 40	857 65	767 51	885 37	746 37	806 75	1,059 75	1,017 99	866 14	858 21	10,631 17
Stock Killed		2 00		39 00			57 00	153 00	26 00	225 00	36 00	16 00	554 00
Train Service	499 14	555 75	422 53	651 31	436 63	668 45	475 84	502 07	527 45	548 35	586 57	539 09	5,983 58
Telegraph Service	408 72	433 49	374 12	367 75	379 75	383 12	357 31	378 37	375 19	387 69	374 10	869 71	4,589 87
Taxes				11 00									11 00
Total Operating Expenses	$11,526 04	$12,908 58	$10,834 13	$14,884 75	$15,902 06	$16,958 81	$12,962 80	$15,100 16	$13,608 23	$16,419 27	$16,416 56	$17,077 80	$174,598 19
Chargeable to Income Account but not Operating Expenses.													
Car Rental	$1,011 22	$1,573 45	$1,139 21	$1,869 02	$1,337 70	$1,459 13	$1,143 42	$1,863 10	$1,491 45	$1,584 15	$1,488 55	$1,111 51	$16,856 00
Locomotive Rental	780 00	945 00	720 00	910 00	780 00	810 00	750 00	810 00	810 00	750 00	945 00	780 00	9,790 00
Total	$1,791 22	$2,518 45	$1,859 21	$2,779 02	$2,117 70	$2,269 13	$1,893 42	$2,673 10	$2,301 45	$2,334 15	$2,367 55	$2,001 51	$26,646 00
Total to Income Account	$13,317 26	$15,426 83	$12,693 34	$17,663 77	$18,019 81	$19,227 94	$14,855 61	$17,773 26	$15,909 68	$18,893 42	$18,784 11	$19,079 31	$200,644 19
Net													
Deficit	$2,981 94	$1,791 38	$3,427 42	$3,882 03	$8,376 75	$7,384 53	$7,007 47	$6,427 87	$1,829 65	$4,780 73	$6,022 56	$9,124 10	$61,776 83
IMPROVEMENTS AND BETTERMENTS TO PROPERTY.													
Right of Way											$38 94		$38 94
Grand Total of all Expenses	$13,317 26	$15,426 83	$12,693 34	$17,663 77	$18,019 81	$19,227 94	$14,855 61	$17,773 26	$15,909 68	$18,893 42	$18,823 05	$19,079 31	$200,683 13

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Exhibit No. 2.—Indianapolis, Bloomington & Western Railway.

Balance Sheet of General Ledger, November 30, 1878.

Income Account, Extension		[illegible]
To Income Account, November 30, 1878.		
Operating Expenses, Main Line, Nov. 30, 1877, to Nov. 30, 1878	[illegible]	
Rentals, Main Line	[illegible]	
Operating Expenses, Extension, Nov. 30, 1877, to Nov. 30, 1878	[illegible]	
Rentals, Extension	[illegible]	
Total Income Account		[illegible]
* Illinois Taxes, Main Line, Nov. 30, 1878	[illegible]	
Illinois Taxes, Extension, Nov. 30, 1878	[illegible]	
		[illegible]
Interest, Special Tax Certificates		[illegible]
Right of Way, Main Line, Nov. 30, 1877	[illegible]	
Right of Way, Main Line, Nov. 30, 1878	[illegible]	
		[illegible]
Right of Way, Extension, Nov. 30, 1877	[illegible]	
Right of Way, Extension, Nov. 30, 1878	[illegible]	
		[illegible]
New Work, Main Line, Nov. 30, 1877	[illegible]	
New Work, Main Line, Nov. 30, 1878	[illegible]	
		[illegible]
New Work, Extension, Nov. 30, 1878		[illegible]
New Equipment, Main Line, Nov. 30, 1878		[illegible]
New Equipment, O. Adams' Contract, Nov. 30, 1878	[illegible]	
New Equipment, O. Adams' Contract, Nov. 30, 1877	[illegible]	
		[illegible]
Western Car Company, Unadjusted Account		[illegible]
Materials on hand for Current Operations		[illegible]
Cashier and Pay-Master		[illegible]
Local Agents		[illegible]
United States Express Company		[illegible]
United States Government P. O. Department		[illegible]
Due from Other Roads and Individuals		[illegible]
Indianapolis, Bloomington & Western Railway Co.		[illegible]
		[illegible]

Income Account, Main Line		[illegible]
Earnings, Main Line, Nov. 30, 1877, to Nov. 30, 1878	[illegible]	
Earnings, Extension, Nov. 30, 1877, to Nov. 30, 1878	[illegible]	
Total to Income Account		[illegible]
Accounts Payable		[illegible]
Receiver's Certificates, Iron and Steel Rails	[illegible]	
Receiver's Certificates, Special Tax	[illegible]	
Receiver's Certificates, Special Loan	[illegible]	
Receiver's Certificates, Main Line Tax	[illegible]	
Receiver's Certificates, Extension Tax	[illegible]	
		[illegible]
		[illegible]

* Illinois taxes divided as per assessments by townships through which each line is located; and where both lines are in same township, taxes divided on a mileage basis.

1528 EXHIBIT No. 4.

INDIANAPOLIS, BLOOMINGTON & WESTERN RAILWAY.

Cash Balance Sheet for the Year ending November 30, 1878.

To balance, December 1, 1877	$73,523 23	By amount of Vouchers paid	$707,476 78
To cash received from Local Agents	1,204,342 09	" " Pay Rolls	551,955 84
" " " Foreign R'ds and Individuals	213,906 26	" " Paid Foreign Roads and Individuals	190,477 06
To cash received from U. S. Ex. Co.	7,511 80	By amount Paid Receiver's Cert't's	372,425 00
" " " U. S. Government P. O. Department	26,036 05	" " Interest Rec'ver's Certificates	12,571 87
To cash received from Receiver's Certificates	367,650 00	By balance	57,802 88
	$1,892,769 43		$1,892,769 43
Total balance December 1, 1878	$57,802 88		

MONTHS.	Freight.	Passenger.	Total.
December, 1875	$7,022 34	$571 34	$7,593 68
January, 1876	17,601 25	339 47	17,940 72
February, "	7,620 08	300 91	7,920 99
March, "	13,709 73	277 84	13,987 57
April, "	7,386 82	440 22	7,827 04
May, "	11,769 43	385 45	12,154 88
June, "	8,459 21	178 04	8,637 25
July, "	14,402 14	314 19	14,716 33
August, "	19,513 15	398 27	19,911 42
September, "	17,023 58	577 76	17,601 34
October, "	11,618 80	384 01	12,002 81
November, "	8,802 24	308 28	9,110 52
Total	$144,928 77	$4,475 78	$149,404 55

EXHIBIT No. 6.

STATEMENT OF TONNAGE FORWARDED FROM ALL STATIONS AND REVENUES FROM THE SAME, FOR THE YEAR ENDING NOVEMBER 30, 1878.

STATIONS.	CLASSIFIED TONNAGE.															TOTAL TONNAGE.				REVENUE.			
	Merchandise, Etc.	Corn.	Oats.	Wheat, Rye and Barley.	Flour and Mill Stuffs.	Lumber, Logs and Staves.	Coal.	Iron.	Meats.	High-Wines.	Wool.	Horses and Cattle. No.	Horses and Cattle. Weight.	Hogs and Sheep. No.	Hogs and Sheep. Weight.	Way.	Through.	Foreign.	Total.	Way.	Through.	Foreign.	Total.
Indianapolis	23,657,424				9,771	3,043,725	564,400	1,691,309	102,835	103,408		6	13,000			20,680,216	8,505,656	2,809,221	29,185,872	$31,772 45	$14,797 29	$1,194 92	$46,569 74
Indianola	29,622,634	43,000		149,400	100,870	3,866,700	8,179,213	2,412,616	1,177,119	2,806,255	6,100	160	217,500	649	172,000	15,081,967	33,671,440	625,042	48,753,407	14,393 38	33,992 54	214 61	48,385 92
Carters																							
Clermont	22,350			52,200		566,600								638	143,500	784,650			784,650	351 79			351 79
Brownsburg	147,004	1,024,465		690,565	40,000	2,579,200								4,247	1,104,000	5,585,234			5,585,234	3,269 52			3,269 52
Pittsboro	341,330	727,800		603,000	70,875	4,801,100			200		600	71	20,000	4,643	1,268,000	7,832,905			7,832,905	4,923 90			4,923 90
Raintown	2,115					72,850										74,965			74,965	48 03			48 03
Lizton	293,122	3,316,500	332,000	800,400	66,320	2,229,900						16	16,000	3,142	1,074,000	8,128,242			8,128,242	6,123 50			6,123 50
Jamestown	673,155	2,835,720	1,372,600	305,490		7,456,255	24,000					310	340,000	9,862	3,051,000	16,058,220		2,155,150	16,058,220	12,466 37		1,095 33	12,466 37
New Ross	172,262	719,900	59,100	883,800	26,300	5,308,050						92	96,000	7,524	1,846,200	9,111,612		160,000	9,111,612	7,692 28		83 10	7,692 28
Mace	143,521	144,400	24,500	874,400	4,200	1,645,820						25	18,000	4,088	1,136,000	3,990,841			3,990,841	3,150 69			3,150 69
Crawfordsville	4,603,378	4,194,300	78,100	2,209,390	307,000	4,229,300	1,090,800		500		60,060	1,187	1,392,500	27,013	7,743,500	25,908,828		832,970	25,908,828	15,538 39		528 37	15,538 39
Troutman's	49,697			24,000		20,000					85,402			989	267,000	446,099			446,099	587 81			587 81
Wesley, Ind	60,475			156,000		256,000										472,475			472,475	328 44			328 44
Waynetown	178,794	1,115,600	21,500	2,573,570	62,400	651,200						355	308,000	4,781	1,380,000	6,291,064		533,000	6,291,064	5,839 73		351 25	5,839 73
Range Road																							
Hillsboro	318,902	796,650	24,600	2,404,600	129,331	2,637,200					3,695	50	56,000	5,326	1,396,500	7,767,478		782,000	7,767,478	7,477 63		484 87	7,477 63
Rynear	72,165	168,000		508,000		272,000										1,020,165			1,020,165	774 89			774 89
Chambersburg																							
Veedersburg	736,345	5,303,700	72,100	3,341,000	621,000	4,511,800	124,000	20,000			9,940	275	302,000	5,430	1,756,000	16,797,885		2,269,600	16,797,885	12,510 46		1,057 28	12,510 46
Covington	1,125,322	3,593,701		2,046,227	588,000	1,037,740	1,286,450	116,500	120,805		3,517	38	47,000	1,756	488,170	10,453,432		541,862	10,453,432	7,494 98		337 33	7,494 98
Mound City	198,000	1,386,670		44,000		308,050								490	112,000	2,048,670			2,048,670	1,785 75			1,785 75
Beckwith						72,000								130	32,000	104,000		72,000	104,000	75 58		21 58	75 58
Danville	5,260,357	3,095,028	436,666	349,370	1,261,770	8,522,064	11,705,050	1,167,150	3,583	440	7,328	691	724,500	7,332	2,552,000	35,085,306		20,895	35,085,306	20,517 70		12 22	20,517 70
Oakwood	1,046,011	673 300	45,016			296,100	643,450					32	36,000	2,395	736,000	3,475,877		96,370	3,475,877	2,512 69		51 82	2,512 69
Muncie	30,297	2,029,100	227,800	270,400		72,000						411	525,000	1,853	588,000	3,742,597		451,280	3,742,597	4,252 03		229 65	4,252 03
Fithian	127,200	3,055,150	559,450	296,500	3,000	275,000					3,600	79	100,000	2,575	780,000	5,199,900		122,270	5,199,900	6,429 98		69 96	6,429 98
Ogden	141,940	7,403,530	575,390	328,100	42,000	22,500						132	128,000	2,794	758,000	9,459,460		160,635	9,459,460	12,111 44		147 07	12,111 44
St. Joseph	149,088	6,921,069	703,500	797,000		902,650	40,000					213	220,000	6,093	1,960,000	11,693,307		200,335	11,693,307	14,178 88		107 84	14,178 88
Mayview	239,460	1,981,470	349,400	170,600										737	176,000	2,916,930		48,520	2,916,930	3,801 80		49 22	3,801 80
Urbana	714,028	6,963,800	1,294,980	481,500	2,300	566,835	168,550					60	40,000	250	65,000	10,291,003		50,068	10,291,003	11,476 08		14 51	11,476 08
Rising	190,805	936,500	119,000									242	200,000	3,954	1,004,000	17,356,847		1,159,435	17,356,847	19,606 78		602 06	19,606 78
Mahomet	190,921	4,809,620	2,343,590	374,000	1,195	592,600					4,879	634	651,500	3,918	1,130,000	10,098,305		304,370	10,098,305	13,253 72		264 19	13,253 72
Mansfield	691,935	5,928,900	1,001,600	255,200	100	1,888,000					4,625	106	80,000	2,262	743,400	10,593,760		230	10,593,760	10,521 19		36	10,521 19
Gardner's																							
Farmer City	2,532,513	11,068,434	1,886,570	771,150	4,700	462,000	560,550			4,000	1,115	164	176,000	4,216	1,064,000	18,531,032		116,000	18,531,032	19,850 39		113 63	19,850 39
Empire	150															150			150	34			34
Leroy	561,875	4,831,900	1,187,200	644,700	367,165	862,800					13,890	706	865,500	7,571	1,908,000	11,243,030		22,430	11,243,030	13,535 64		28 79	13,535 64
Downs	205,920	2,408,200	1,451,550	468,300	16,600	167,700						164	176,000	4,207	1,178,000	6,072,270			6,072,270	7,885 73			7,885 73
Gillum	45,500	101,800	198,200	27,000		20,000						106	120,000	1,523	424,000	936,500			936,500	1,118 74			1,118 74
Bloomington	11,851,725	9,710,095	3,620,620	1,153,400	1,274,526	5,440,510	6,607,600	168,600	834,720		42,460	1,009	1,103,500	914	268,000	42,075,756		3,440,075	42,075,756	39,602 30		1,706 61	39,662 30
Twin Grove																							
Danvers	338,207	4,648,200	3,324,480	910,430	200	739,000						697	867,000	7,959	2,442,000	13,259,517			13,259,517	13,590 69			13,590 69
Lilly	713,115	890,000	608,100	155,500	150	322,000						33	36,000	1,036	340,900	3,065,765			3,065,765	2,658 62			2,658 62
Mackinaw	98,926	358,250	318,050	248,000	4,000	91,100						174	180,000	3,578	800,000	2,099,051			2,099,051	1,505 12			1,505 12
Menert						160,000			725					60	16,000	176,000			176,000	133 49			133 49
Tremont	345,381	4,143,460	964,760	196,600	55,200	595,600						293	334,000	7,228	2,064,600	8,699,601			8,699,601	6,225 11			6,225 11
Leslie																							
Pekin	3,054,241	8,192,315	154,570	121,700	67,530	523,500	869,400	1,635	401,350	2,901,355	42,689	255	323,500			16,653,785		8,650,365	16,653,785	14,253 04		4,289 92	14,253 04
Peoria	16,674,558	80,860,355	23,012,877	30,384,770	7,959,280	1,655,900	425,880	76,400	3,010,285	13,598,582	18,820	3,598	3,215,300	3,323	758,000	7,779,224	173,871,781	142,939,380	181,651,007	10,971 02	107,543 73	82,330 02	118,514 75
Staleys	1,000	3,446,680	231,600													3,679,280			3,679,280	4,786 46			4,786 46
Bondville	77,325	7,109,590	572,080	20,400												7,779,395		21,555	7,779,395	10,538 71		14 10	10,538 71
Seymour	5,865	6,253,200	261,300	158,300												7,984,665		740,000	7,984,665	10,161 88		366 30	10,161 88
White Heath	58,640	975,250	213,600	93,400		228,200						574	758,000	2,130	548,000	1,814,090		365	1,814,090	2,265 14		74	2,265 14
Woods												19	25,000	643	220,000								
Deland	84,197	5,323,400	1,153,000	331,200		26,000						55	60,000	3,633	1,100,000	8,077,797		80,700	8,077,797	11,253 12		45 45	11,253 12
Weldon	213,974	6,914,400	2,187,000	271,400								234	254,000	2,595	632,000	10,472,774		137,300	10,472,774	14,577 36		90 49	14,577 36
Lanes	35,375	2,127,100	439,100	46,800								45	50,000	2,369	536,000	3,234,375		2,180	3,234,375	4,995 90		3 77	4,995 90
Clinton	568,218	5,342,300	788,600	192,350	244,350	42,700	25,100	20,000			2,035	299	313,250	5,498	1,498,000	9,036,903		127,500	9,036,903	10,025 07		118 83	10,025 07
Hallville	39,456	2,561,700	396,500	24,500	200	18,000						49	16,000	1,635	432,000	3,488,356		100	3,488,356	4,774 71		26	4,774 71
Dunham	24,753	144,000	72,800			24,000										265,553			265,553	1,019 13			1,019 13
Beason	71,020	5,551,200	238,300	162,100	375									3,595	848,000	6,870,995		80,000	6,870,995	8,938 21		85 41	8,938 21
Skelton	27,730	2,646,949	250,100	147,600										881	240,000	3,315,370			3,315,370	4,105 05			4,105 05
Lincoln	1,444,758	5,682,100	25,000	616,700	44,100	1,077,900	17,065,500			400		349	266,000	5,329	1,390,200	27,612,058			27,612,058	19,089 99			19,089 99
Burtonview	26,060	1,612,600	44,400	200,000								17	18,000	930	240,000	2,147,060		18,000	2,147,060	2,610 82		23 72	2,610 82
New Holland	22,084	14,231,420	1,250,300	329,930	20,500							164	182,000	2,840	700,000	16,736,234		112,000	16,736,234	22,869 93		120 03	22,869 93
Mason City	400,295	13,413,250	426,200		80,625	139,060		20,000	100			56	60,000	2,014	480,000	15,019,530		1,095	15,019,530	19,023 52		3 05	19,023 52
Teheran	7,080	8,728,700	171,000	1,500				18,000								8,926,280			8,926,280	6,134 61			6,134 61
Easton	574,370	8,198,860	616,800	252,500	1,200							120	140,000	2,726	656,000	10,439,730		550	10,439,730	6,873 88		2 58	6,873 88
Biggs	34,500	284,000														318,500			318,500	163 03			163 03
Poplar City		1,796,500	48,000													1,844,500			1,844,500	743 96			743 96
Havana	726,145	35,282,450	1,103,850	2,065,390	(9,200	3,110,400	1,108,000		400		8,350	36	45,000	64	18,000	2,370,215	41,166,970	6,253,265	43,537,185	1,936 09	26,204 21	3,403 00	28,040 30
Monticello	1,484,010	5,936,730	1,102,300	347,900	139,790	223,000	24,000		145		1,300	700	947,500	5,139	1,566,000	11,772,675		889,430	11,772,675	14,006 11		811 41	14,006 11
Cisco	96,337	5,802,100	1,447,100	212,100		449,250						54	56,000	1,726	514,000	8,636,887		36,225	8,636,887	11,409 51		23 75	11,409 51
Argenta	189,659	3,255,650	829,289	311,740	18,000	220,060					1,950	491	600,000	4,047	1,142,000	6,598,339		282,265	6,598,339	7,761 75		173 68	7,761 75
Oreana	82,315	3,214,400	610,500	257,900								48	60,000	1,839	540,000	4,765,115		168,465	4,765,115	5,446 62		116 39	5,446 62
Decatur	1,530,605	743,100	191,310	115,800	35 5,224	313,550			1,980			1	2,000	50	20,000	2,124,814	1,148,755	40,400	3,273,569	2,900 30	1,333 75	26 83	4,234 05
Total	121,695,029	360,673,952	61,819,189	62,536,272	14,106,647	76,234,139	50,807,273	5,712,210	5,655,017	19,416,600	343,072	16,083	17,345,550	207,114	58,240,370	596,220,716	258,364,604	177,871,898	854,585,320	597,146 20	183,771 52	101,009 08	780,917 72
From White Line Stations	4,461,655						1,135,718									3,657,618	1,939,755	5,597,373	5,597,373	2,085 04	1,825 55	3,910 59	3,910 59
" Hoosac Tunnel Stations	159,028															40,310	118,718	159,028	159,028	23 11	125 55	148 66	148 66
" National Line Stations	6,473,428									5,160						4,278,817	2,199,771	6,478,588	6,478,588	4,101 75	3,089 70	7,191 45	7,191 45
" Pittsburgh	500,973											3	5,000				505,973		505,973		587 46	587 46	587 46
" " Transfer	1,050,357					52,400	15,134,285									4,934,905	11,902,137	16,837,042	16,837,042	1,544 36	7,392 40	8,936 76	8,936 76
" Cincinnati—I., C. & L																							
" Lawrenceburg—I., C. & L																							
" Cincinnati—C., H. & D	12,632,464					30,550	4,465,690	1,118,000	19,505	1,390,279	7,285	75	62,000	92	16,000	6,082,741	13,659,032	19,741,773	19,741,773	6,284 71	17,118 80	23,403 51	23,403 51
" Hamilton—C., H. & D	3,097,617				600					36,920						732,301	2,402,836	3,135,137	3,135,137	742 32	3,643 40	4,385 72	4,385 72
" Chicago—C., & A										100		36	32,000			188,940		188,940	188,940	103 31		103 31	103 31
" Chicago—Ills. Central	76,440				400	80,000						100	100,000			11,480,141		11,480,141	11,480,141	5,919 69		5,919 69	5,919 69
" Chicago—C. & E. I	4,896,474		23,290	452,730	260,050	5,340,651			20,000	380,946													
" Foreign Stations East																35,100	1,077,471	1,112,571	1,112,571	16 18	656 26	672 44	672 44
To Foreign Stations West	366,421						746,150										233,228	233,228	233,228		161 21	161 21	161 21
From Foreign Stations West																							
To Foreign Stations East	75,428	70,200		24,600	40,000	23,000																	
Total	34,390,285	70,200	23,290	477,330	301,050	5,526,601	21,481,843	1,118,000	39,505	1,819,405	7,285	214	199,000	92	16,000	31,430,873	34,038,921	65,469,794	65,469,794	20,820 47	34,600 33	55,420 80	55,420 80
Grand Total	156,085,314	360,744,.52	61,842,479	63,013,602	14,407,697	81,760,740	72,289,116	6,830,210	5,694,522	21,236,005	350,357	16,297	17,544,550	207,206	58,256,370	627,651,589	292,403,525	243,341,692	920,055,114	617,966 67	218,371 85	156,429 88	836,338 52

RECAPITULATION.

KIND.	TOTAL TONNAGE.	TONNAGE ONE MILE.	EARNINGS.	EARNINGS PER TON PER MILE.	KIND.	TOTAL TONNAGE.	TONNAGE ONE MILE.	EARNINGS.	EARNINGS PER TON PER MILE.
Way	313,825 80/100	31,200,573 30/100	$617,966 67	.01 99/100	Home	338,356 70/100	39,436,174 35/100	$679,908 64	.01 72/100
Through	146,201 75/100	30,965,418 90/100	218,371 85	.00 70/100	Foreign	121,670 85/100	22,729,817 85/100	156,429 88	.00 69/100
Total	460,027 55/100	62,165,992 20/100	$836,338 52	.01 35/100	Total	460,027 55/100	62,165,992 20/100	$836,338 52	.01 35/100

On the 18th day of March, 1879, your receiver filed with Master Fishback an approximate statement of the financial condition of the trust, in which he endeavored to give, as nearly as practicable, all outstanding liabilities against him as receiver, and such other
1536 claims as might arise upon final decisions upon claims pending in various courts or before masters in chancery.

Of the claims specified in said report only a few have been established. Ten or twelve claims for stock killed on the road during the receivership have been adjusted and paid, and your receiver believes that very little, if any, more of the funds in his hands will be required to settle all just claims arising during the entire period of the receivership, unless there shall be found in the case of the Western Car Company, now pending before special master Holstein, a balance due to them. Your receiver begs leave to state further, that during the four years and four months of his management of the trust less than one hundred dollars will cover all losses by unfaithful agents or employés, and that great credit is due to all his heads of departments and others connected with him in the administration of the trust.

In the account herewith filed of receipts and disbursements between August 1, 1879, and June 30, 1881, your receiver has credited himself for compensation, as receiver, with $3,000 in the month of October, 1880, and $2,000 in the month of May, 1881; making a total of $5000, which he respectfully asks the court to allow
1537 and approve.

Your receiver has omitted to enter in his account the sum of $178.71, for various incidental expenses incurred by him in the adjustment and settlement of claims since August 7, 1879, which he also asks may be allowed to him out of the funds in his hands. Although your receiver has not been in active service and management of the property since August 7, 1879, he respectfully submits to the court for consideration whether the collection and disbursement of so large an amount of money, being over seven million dollars, the settlement of important claims against the trust, the large amount of time employed in giving testimony in causes pending, the constant correspondence which the receiver has been compelled to keep up with creditors and bondholders of the company, and the fact that he has received no other compensation than the amount herein claimed since August 7, 1879, nearly two years, does not justly entitle him not only to the $5,178.71 asked, but to even more. During the whole period since his appointment as receiver, he has been under heavy bonds for the faithful discharge of his trust.

Your receiver submits this report and exhibits together with
1538 the vouchers for disbursements from August 1, 1879, to June 30, 1881, and asks that the same may be referred to the master for examination and report.

All of which is respectfully submitted.

GEO. B. WRIGHT, *Receiver.*

INDIANAPOLIS, IND., July 2d, 1881.

Subscribed and sworn to before me this 7 July, 1881.
NOBLE C. BUTLER, *Clk.*

Schedule "A."

INVENTORY OF PROPERTY TURNED OVER TO THE PURCHASERS OF THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY BY GEO. B. WRIGHT, RECEIVER, APRIL 11TH, 1879.

A No. 1.—Invoice of Main Line and Side Tracks.

	Miles.	Total miles.
Road, Indianapolis to Pekin, main track.....	202.3	
" " " " side "	323.9	
		234.69

A No. 2.—Buildings.

1 Griggs House and furniture.
10 freight stations.
2 passenger "
26 " and freight stations.
21 water stations.
6 boarding houses.
19 platforms.
24 privies
1539 17 coal houses.
35 stock pens.
39 hand-car houses.
22 mail catchers.
2 iron turn tables.
4 wood " "
2 watch houses
2 switch houses.
1 sand house and oven.
2 brick engine houses.
41 stalls.
2 wood engine houses, 3 stalls.
1 brick machine shop.
4 blacksmith shops.
2 frame carpenter shops.
1 boiler shop frame.
2 frame store rooms & offices.
1 upholster shop.
1 brick oil house & fixtures.
1 frame tin shop.
1 coach house.
1 wood shed.
2 coal sheds
1 coal shute.

A No. 3.—Locomotive Engines.

34 Rhode Island locomotives—Nos. 1, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 34, 35, 36, 37, 38, 46.
2 Rogers locomotives—Nos. 2 and 45.
4 Hinkley " Nos. 39, 42, 43, 44.

A No. 4.—Passenger, Freight and Miscellaneous Cars.

PASSENGER CARS.

19 passenger coaches.
4 chair cars.
3 baggage, express and mail cars.
4 baggage and express cars.
3 baggage and smoking cars.
2 postal cars, 1 pay car.

FREIGHT CARS.

249 local box cars.
95 white line box cars.
497 Oliver Adams box cars.

146 coal cars.
8 pilot cars.
80 flat cars
97 stock cars.
26 cabooses.

MISCELLANEOUS CARS.

62 hand cars.
60 push cars.
1 derrick car complete.
1 steam shovel.
1 pile driver.
3 boarding cars.
1 bridge car
1 work train caboose.

A No. 5.—Bridge Tools.

1540 5 monkey wrenches
3 large "
1 wheel "
2 crabs and lines
3 blocks and falls
1040 feet rope
6 oil cans
4 lanterns
8 x cut saws
18 screw jacks
4 track "
2 lifting "
13 jack levers
6 crow bars
4 claw bars
3 pinch bars
5 sining bars
2 steel bars
7 spike mauls
4 sledges
9 axes
1 hand ax
10 shovels
2 picks
4 boring machines
10 augers
6 cold chisels
2 grind stones
6 timber trucks
4 bolt jacks and wrenches
1 punch
1 track gauge
3 chairs
1 vise
2 drift bolts

Track Tools.

236 shovels
156 picks
170 tamping bars
130 lining "
21 crow "
130 spiking hammers
130 sledges
309 cold chisels
53 punches
8 augers
1541 57 adzes
49 axes
32 hatchets
34 saws
22 wheel barrows
66 bush scythes
103 oil cans
2 mattocks
30 water kegs
19 " buckets
37 grind stones
29 tape lines
22 track jacks
33 " levers
52 level boards
64 " blocks
43 ratchets
110 ratchet drills

48 track gauges
47 levels
92 lanterns, white
13 " red
142 track wrenches
22 monkey "
47 locks
75 handles
29 red flags
20 scythe hoones
108 claw bars
3 curving hooks
2 jim crows

A No. 6.—Tools on hand at Shops.

Urbana Machine Shop:

1688 lbs. steel tools
830 " iron "
492 reamers, taps, dies, &c.
17 vises
2 pair ratchet jacks
1 " level "
1 surfacing screw press
3 face plates
3 iron wheelbarrows
1 wooden "
4 large stoves and 1 clock

Boiler Shop:

1 No. 6 Wilder's press with 2 punches and dies
1 boiler plate roller
1 pr. cast alligator shears
1 hand punch
1 pr. hand shears
1 flue cutting machine.
1542 1 pr. sheet iron shears.
1 " " punch.
1 flange forge.
1 pair " clamps.
1 vise.
1 anvil.
1 large stove.
995 lbs. steel tools.
1825 " iron tools.
2 hand trucks.
1 small set pulley blocks & ropes.
2 differential " " "
1 2-in. tube expander.
1 1⅜-in. " "
1 3-in. " "
1 1¼-in. " " faucets.

Blacksmith Shop:

1 36 in. bellows
1 40 in " (with steam shovel)
11 anvils
7 squares
1 rail block cut
1 swage block
1 bolt shears
1 cast iron block
1 " cone
1 " water vat
2 cams
1 large anvil
1 vise
1 face plate c iron
703 lbs steel tools
3525 " iron "
1 No. 4 Sturtevant blower
1 650 lb steam hammer & anvil complete
2 portable forges.
2 1½-ton Doye pulley blocks.

Round House:

215 lbs. steel tools.
980 " iron "
1 challenge pump, 200 ft. rub.hose.
25 large stoves.
6 jacks.
6 bench vises.
4 bench screws.
3 facing plates.
3 12-in. jacks.
1 small stove.
1 Champion fire extinguisher, " on wheels."
6452 lbs. engine springs, 'repaired.'
14 wrenches.
14 hammers.

Pattern Shop:
1 doz. each 10 and 13-in. hand screws.
54 brass patterns at shops.
219 iron " at Ind'p'ls.
966 iron " " Urbana.

Car Shops and Yards:
1 iron wheelbarrow.
1 wooden "
29 hand screws.
77 cast steel tools.
26 15-in. wrenches.
16 12 " "
23 hammers.
6 large picks.
15 engine jacks.
1543 5 small jacks.
1 bench vise.
3 large stoves.
1 pr. platform scales (1,000 lbs.) on wheels.

Tin Shop:
1 cruse iron.
1 pr. shears each No. 2, 5, 6½, & 9, and No. 10.
1 blow horn.
1 hatchet stake.
1 peck swage.
1 punch ea. ¾, 1, 1½, and 1¾.
1 pr. 3 ft. rollers, 2 in.
1 bake-iron.
1 pair cutting pliers.
1 large stake.
1 stove.
1 coppersmith's forge.
1 bench vise.
1 each 20 & 30-inch folders.
1 candle-mold stake.
1 grooving machine.
1 swaging "
1 turning "
2 burning "
1 pruning down machine at Indianola.
1 blacksmith bellows.
2 anvils.
1 bolt machine.
1544 1 hand drill.
2 grind-stones.
1 platform scales.

Paint Shop:
8 50-gal. cans.
1 5 " "
3 10 " "
1 40 " iron kettle.
1 45 " " barrel.
2 paint mills.
1 pr. scales.
4 large stoves.
1 marble slab, 16 in. square.

Oil Room:
1 large oil tank (4,000 gals.)
2 " " " (10 brls.)
3 " " " (3 ")
1 caboose stove.
1 small force pump for oil.
2 tin lifting pumps.
1 copper " "

1 pr. small scales.

Water works Office at Shop:
1 pr. 3-ft. rollers, 2-in.
1 bench vise.
2 set stakes and dies.
5 pr. pipe tongs.
1 steltson wrench.
1 1-in. Barwick wrench.
1 ratchet drill.
1 desk.
1 No. 4 Black Hawk stove.

Office at Store-room:
1 W. B. copying press, 17x22.
6 desks—3 old.
5 chairs.
2 stoves.
1 stool.
1 pr. floor scales (2 ton.)
1 platform " (200 lbs.)
1 small grocer's scales.
2 small freight-house trucks.

At Peoria
Locomotive Department
2 ratchet jacks.
2 screw jacks.
1 wash hose 250 ft.
5 large tin oil tanks.
1 office desk.

3 bench vises.
1 full set blacksmith tools.
16 stoves in round house.
4 pat. ratchet jacks.
10 common " "
6 12-in. " "
1 full set machinist's steel and iron tools.
10 monkey wrenches.
3 pipe " "
2 spanner " "
8 pinch bars.
2 flue expanders.
2 ratchet drills.
4 hand sledges.
2 wheel barrows.
1 hose reel and 250 ft. hose.
1 " chair.
2 pony jacks.
1 bench vise.
1 ratchet.
4 drills.
1 screw plate.
3 set dies.
4 taps.
1 drill press.
8 open wrenches.
2 monkey " "
2 stud " "
4 pinch bars.
1 desk.
2 cupboards.
6 caulking tools.

At Peoria Car Department:

2 ratchet jacks.
2 brake clamps.
1 tool chest.
6 open wrenches.
4 hammers.
1545 1 ratchet and 3 drills.
1 grind-stone.
100 ft. hose washing coaches.
1 pr. platform scales.
4 pinch bars.
1 bench vise.
4 pony jacks.
2 oil tanks.
2 saws.
6 monkey wrenches.
1 sledge.
1 screw-plate and 4 sets dies.
1 pr. pipe tongs.
1 head light.
1 pr. platform scales, small.
1 stove.

A No. 7.—Machinery at Shops.

One 12x36 Corliss stationary engine.
One 40 H. P. tubular boiler.
One double headed driving wheel lathe with boring attachment.
One 36 in. engine lathe.
One 32 " " "
One 28 " " "
One 24 " " "
One 18 " " "
One 16 " " "
One 14 " " "
One 20 " wood "
One 5 foot Radial drill.
One No. 1 Upt "
One " 2 " "
One No. 2 nut tapper with taps.
One " 2 bolt cutter " " and dies.
One 12-in. shaping machine.
One 8-in. " "

One 26 in. x 26 in. x 6 ft. planer.
One hydraulic drilling wheel press, 280 ton pressing gauge.
One car wheel barrier.
1546 One No. 2 pump.
One duplex " 10x6x10.
One grind stone, 5 ft. x 8 in.
One flue rattler.
One steam-gauge tester.
One 27 in. 4 jawed chuck fitter.
One 24 " 4 " " "
One 21 " 4 " " "
One 9 " 4 " " fitted to 14 in. lathe.
One 9 " 4 " " Horton.
One 24 " chuck.
One 12 " "
Two ea. screw gear, for 16—24—28 and 36 lathe.
Twelve drill sockets.
One set " $\frac{3}{8}$ to $1\frac{1}{2}$ in., with turned shanks.
150 ft. $2\frac{3}{4}$ in. shafting, complete, with pulleys and flange couplings.
86 feet 18 in. leather belting.
710 " " "

A No. 8—*Invoice of Material on Hand April* 11*th*, 1879.

	Air brake material	407 00
	Augers	2 50
	Adzes	23 05
	Axes	29 38
	Axles and crank pins	533 75
	Brooms	9 00
	Buckets	5 07
	Bolts, track	60 90
	Boiler tubes	358 80
1547	Bell cord	36 49
	Bell cord, couplings & H	47 50
	Brushes	159 78
	Butts and hinges	81 06
	Brads and tacks	20 44
	Bolts and nuts	695 49
	Casting brass	3,498 11
	" iron	2,182 33
	Copper	1,570 77
	Chairs	62 13
	Canvass	2 40
	Coal hods	5 60
	Candles	154 70
	Coal, Blossburg	123 25
	Coal, common	190 08
	Chimneys	42 76
	Coach trimmings	200 50
	Dry pipes	135 93

	Flags	8 89
	Fog signals	$11 50
	Frogs	600 00
	Files	115 23
	Grind stones	5 94
	Gauges, steam	30 75
	Grease	194 05
	Glass	157 03
	Globes	54 42
	Gas fittings	185 67
	Handles	53 89
	Hose	48 10
	Head lights	113 15
1548	Iron, common sheet	230 17
	Iron, wro't	1,126 95
	Iron, angle	28 61
	Iron, refined	409 64
	Iron, galvanized	38 08
	Iron, Russia	21 72
	Iron wire	15 78
	Iron rails	1,371 42
	Japan	166 14
	Jacks	81 50
	Locks	100 09
	Levels	6 62
	Lanterns	120 22
	Lamps, office	17 94
	" coach	183 00
	Leather and Belting	75 55
	Lead	5 98
	Lead, white	208 80
	Lumber, Pine	7,320 82
	Lumber, oak	2,879 32
	Lumber, ash	90 64
	Lumber, poplar	328 00
	Lumber, hickory	114 55
	Lumber, walnut	52 00
	Lumber, cherry	15 80
	Mops	3 30
	Matches	7 50
	Netting	55 10
	Nails	198 44
	Oils, lubricating	1,175 07
	Oil, head light	177 50
1549	Oil, signal	154 40
	Oil cylinder	405 75
	Oil, linseed	175 56
	Picks	6 40
	Packing hemp	49 23
	" rubber	52 29

	Pumps	$52 92
	Piles	44 80
	Posts, fence	77 50
	Paints	478 36
	Plush	256 48
	Rivets	197 75
	Rope	97 13
	Spikes, R. R	894 60
	Scythes & snaths	
	Stones	70
	Soap	7 88
	Splices	283 47
	Switch ropes	57 75
	Saws	22 20
	Sledges	16 38
	Shovels	34 60
	Staples	2 42
	Salt	2 50
	Steel, cast	324 86
	Steel, fire box	347 16
	Steel, spring	97 44
	Steel, frog	66 60
	Steel rails	198 48
1550	Springs	289 33
	Sand & emery paper	61 46
	Screws	814 42
	Tire	246 56
	Turpentine	23 75
	Tape lines	11 50
	Track tools	82 25
	Tin	26 24
	Ties	10,476 60
	Urinals	43 50
	Varnish	415 20
	Ventilators & rings	44 70
	Washers	33 27
	Wicking	10 28
	Waste, white	179 38
	" colored	251 30
	Wrenches	6 60
	Water kegs	19 00
	Wheels	4,213 00
	Wood	1,281 10
	Zink	28 35
	Total material on hand	51,802 79
	Stationery on hand:	
	Form F	1,162 38
	" M	485 32

From P	$33	11
" B	8	64
Total material and stationery on hand	53,492	24

B No. 9.—Furniture.

Receiver's Office:	3 tables.
	1 safe.
1551	2 cases.
	1 press and stand.
	9 chairs.
Cashier's Office:	2 low desks.
	1 standing desk.
	2 safes.
	4 chairs.
	2 stools.
	1 press and stand.
	1 clock.
Atty's Office:	1 desk.
	1 table.
	1 press and stand.
	2 book cases.
	4 sets shelving.
	3 chairs.
	1 safe.
Auditor's Office:	4 low desks.
	7 standing desks.
	1 drafting table.
	7 stools.
	7 chairs.
	1 safe.
	1 press and stand.
	2 cases.
	1 water cooler.
	1 wringer and tub.
Gen. Supt's Office:	4 low desks.
	1 standing desk.
	3 telegraph tables.
	1 table.
1552	2 presses and table.
	5 cases.
	11 chairs.
	1 time card board.
	2 fire extinguishers
	1 clock.
Gen'l. Freight Office:	4 low desks.
	1 safe.
	3 tables.

	1 press and stand.
	8 chairs.
	1 case.
	1 water cooler, (large.)
Gen'l. Pass. Office:	4 low desks.
	1 press and stand.
	12 chairs.
	7 cases.
	3 tables.
	2 stools.
	1 safe.
Engineer's Office:	1 case drafting instruments.
	1 level.
	1 transit.
	2 tape lines.
	1 table.
	1 desk.
	1 case.
	4 chairs.
Indianapolis Station:	1 desk.
	1 stool.
	4 chairs.
1553	2 tables.
	2 cases.
	1 stove.
	3 W. H. trucks.
	1 press.
	16 car locks.
Indianola Station:	6 desks.
	1 table.
	8 chairs.
	2 fire extinguishers.
	1 press.
	2 tables.
	1 water cooler.
	3 stoves.
	2 W. H. trucks.
	1 platform scale.
	20 car locks.
Peoria Station:	4 desks.
	1 safe.
	7 chairs.
	2 stools.
	1 press.
	1 wringer & tub.
	2 stoves.
	1 ticket case.
	1 clock.
	3 W. H. trucks.

Other Stations:

3 clocks.
52 settees.
10 tables.
36 desks.
1554 14 presses.
5 safes.
42 ticket cases.
39 " stamps.
52 chairs.
13 stools.
51 stoves and fixtures.
7 baggage trucks.
24 W. H. "
19 platform scales.

A No. 10.—*Scraps and Second-Hand Material.*

Scrap:

Axles, No.	26	
Casting brass	2000	
" iron	26,000	lbs.
Iron, wro't	26,000	"
" bowings, trimmings, &c.	6000	"
Steel rails, "frog"	20,000	"
" spring	2000	"
" spiral	4000	"
Wheel No.	70	
Brass bearings & trm'gs	515	lbs.

Above being loaded and sold to the receiver's credit.

Second-hand Material:

Axles, mostly in wheel, No.	160	
Casting brass	550	lbs.
" iron	16,380	"
Iron, wro't	18,000	"
Iron bridge bar	12,000	lbs
1555 " tank bands	6,000	"
Tire No.	10	
Pair driving wheels No.	3	
28-in spoke " "	14	
30-in plate " "	22	
33-in " " "	114	

Invoice of property on Indianapolis, Bloomington and Western Railway extension, March 31st, 1879, by W. H. Smith, Receiver:

20 depots
5 coal houses
6 privies
4 platforms
20 stock pens
18 hand car houses
5 coupon ticket cases
10 local " boxes
18 " stamps
20 lanterns
13 pails
16 chairs

8 water tanks and fixtures
1 iron turn table
furniture, &c.,
36 stoves
17 coal hods
17 W. H. trucks
2 baggage "
24 oil cans
21 desks
10 tables
36 lamps
32 settees
9 local ticket cases
4 pinch bars
3 railings
17 car locks
5 sprinklers
6 W. B. presses
5 " " stands
6 platform scales
1 hand cast
4 hatchets
1 stool
1 battery case
1 paper "

1556

Road Tools.

133 shovels.
28 tamping bars.
12 crow bars.
60 spiking hammers.
95 cold chisels.
2 augers.
23 axes.
24 saws.
22 levels.
61 track wrenches.
10 wheelbarrows.
54 oil cans.
19 water kegs.
20 grindstones.
16 track jacks.
32 level boards.
9 ratchets.
44 locks.
21 switch locks.
17 scythe hones.
65 picks.
66 lining bars.
43 claw bars.
16 sledge hammers.
19 punches.
24 adzes.
24 hatchets.
24 track gauges.
25 white lanterns.
17 monkey wrenches.
67 bush scythes.
3 mattocks.
12 buckets.
11 tape lines.
20 track levers.
32 level blocks.
25 ratchet drills.
69 handles.
33 flags.

Rolling Stock.

6 locomotives—Nos. 11, 31, 32. 33, 40, 41.

4 passenger coaches—Nos. 9, 11, 15 and 21.

3 baggage, mail and express cars—Nos. 3, 4 and 8.

29 box cars—Nos. 2,003, 2,004, 2,005, 2,006, 2,007, 2,008, 2,009 2,010, 2,011, 2,012, 2,013, 2,014, 734, 736, 738, 740, 744, 746, 750, 754, 756, 758, 760, 762, 764, 766, 768, 770, 752.

1 boarding car—No. 6; 2 caboose cars—No. 11 and 12.

1557 2 pilot caboose cars—Nos. 24 & 25.

22 coal cars—Nos. 301, 305, 307, 309, 311, 313, 315, 319, 321, 323, 325, 327, 329, 331, 333, 335, 339, 341, 343, 345, 347, 349.

14 stock cars—No. 402, 404, 406, 408, 410, 412, 416, 418, 420, 422, 424, 430, 432, 434.

12 flat cars—Nos. 85, 91, 97, 99, 101, 103, 963, 847, 376, 385, 383, 389.

9 hand cars—No. 1, 2, 3, 4, 5, 6, 7, 8, 9.
9 rubble " No. 1, 2, 3, 4, 5, 6, 7, 8, 9.

The foregoing is a correct list of the personal property at the different stations and on the line of the Indianapolis, Bloomington and Western R'y extension turned over by Geo. B. Wright, receiver, on March 1st, 1879, when I assumed control of said division of road as receiver. The 12 white line cars are said to be in service, and a tracing showing their whereabouts has been furnished me.

The above list also includes the locomotives and cars assigned to the extension by order of the court.

(S'g'd.) W. H. SMITH,
Receiver I., B. & W. R'y. Extension.

I hereby certify that the above and foregoing are copies of the main line and extension inventories that I caused to be taken and made at the time said main line and extension were surrendered to the purchasers, and that the same are true and correct, as I verily believe. GEO. B. WRIGHT, *Receiver.*

1558 *Exhibit "B."*

This agreement made this thirteenth day of February, A. D. 1879, between George B. Wright, receiver of the Indianapolis, Bloomington and Western Railway *main line* and W. H. Smith, receiver of the Indianapolis, Bloomington and Western Railway extension, witnesseth as follows, to wit:

First. Extension to receive on all east bound freight delivered to the main line at Champaign an arbitrary per centage of forty-six per cent. of its gross earnings, the extension agreeing to give the main line all freight traffic that it can control except freight for Chicago.

Second. The main line to reserve the option of declining any freight from the extension that shall pay them a less rate than four cents per 100 lbs. from Champaigne to Indianapolis, except freight from Havana, which the main line agrees to accept at its pro rata proportion of such rate as it is found necessary to meet the competition.

Third. On west bound freight to competing stations the extension agrees to accept its pro rata proportion on mileage basis as per arrangements now in effect with the main line and eastern connections.

Fourth. For all interchange business from or to station on
1559 the main line and extension not covered in articles one (1) and three (3) each road to have its pro rata porportion in proportion to the actual mileage hauled by either company.

Fifth. On all business from Indianapolis or points east, destined to purely *local stations* on the extension, the extension to be allowed forty-six (46) per cent.

Sixth. All freight to be billed through to points on either roads and settlements made monthly by the auditors of the respective roads.

Seventh. Mileage accounts to be kept between main line and extention in the manner customary between foreign roads at current mileage rates, the extension to have a fair proportion of cars furnished it in just proportion to its business and in proportion to cars on hand.

Eighth. Extension to deliver and receive from the main line all trains in yard of the main line at Urbana.

Ninth. Main line to make needed repairs to extension engine and cars, and charge only actual outlay for labor and materials and ten (10) per cent. additional.

Tenth. Main line to house extension engines and cars for
1560 them and cars for extension cars, furnish water and cooling facilities, do all switching, make no charge for use of "Y" at Champaign or of track between Champaign and Round House at Urbana, or other terminal facilities or expenses at Urbana except as herein provided, the extension agreeing to pay for the above labor and facilities two hundred twenty-five ($225) dollars per month.

Eleventh. Extension to pay one-third of salary of A. H. Wood as long as he attends to business of extension and main line as he at present does.

Twelfth. The extension to pay for the use of offices and telegraph services fifty ($50) dollars per month.

Thirteenth. The extension to pay for use of freight and passenger facilities at Champaign in proportion to the amount of business done by the respective lines at that point.

Fourteenth. George B. Wright to keep his accounts as per above contract to charge the extension twenty (20) per cent. of general expenses less the payments provided for in articles 10, 11 and 12 until W. H. Smith, receiver, takes actual possession.

Fifteenth. This agreement to take effect February four-
1561 teenth, 1879, and remain in force until thirty (30) days, notice in writing is given by either party.

(Signed,) GEORGE B. WRIGHT,
Receiver I., B. & W. Ry. Main Line.
W. H. SMITH,
Receiver I. B. & W. Ry. Extension.

1562

"EXHIBIT C."

"EXTENSION."

EARNINGS AND EXPENSES OF INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY, DECEMBER, 1878, TO MARCH, 1879.

EARNINGS.	1878. December.	1879. January.	1st to 14th February.	14th to 28th February.	Total.
From Freight	6,575 10	7,790 44	2,766 00	5,063 44	22,194 98
" Passengers	2,555 78	2,187 20	1,035 91	1,323 71	7,102 60
" Express	37 58	36 89	28 99	39 53	142 99
" Mail	469 59	469 55	198 68	270 91	1,408 73
" Mileage			85 52	77 09	162 61
Total Earnings	9,638 05	10,484 08	4,115 10	6,774 68	31,011 91

OPERATING EXPENSES.	1878. December.	1879. January.	1st to 14th. February.	14th to 28th February.	Total.
Agencies (Foreign Freight)	1 21	1 80	42	1 29	4 72
Conductors, Baggagema's, and Brakes'n	610 20	638 50	325 57	356 08	1,930 35
Engineers and Firemen	878 15	811 50	410 75	389 65	2,490 05
Engine-houses, M. S. & T. T. E. & R	71 33	19 25	10 03		100 61
Fuel and Water Stations, E. & R	499 20	512 72	239 47	162 44	1,413 83
Freight Conductors		235 08	215 33	13 92	464 33
Fuel for Locomotives	819 08	842 50	481 65	366 95	2,510 18
General Expenses	1,253 60	1,123 87	587 41	484 95	3,449 83
Insurance	123 00				123 00
Interest and Discount					
Loss and Damage (Freight)		107 68	1 00		108 68
Legal Expenses	173 66	171 25	79 18	48 04	472 13
Maintenance of Cars	993 46	679 63	169 74	407 02	2,249 85
Maintenance of Motive Power	470 47	628 44	538 45	208 55	1,845 91
Maintenance of Road	4,379 18	3,060 00	3,531 89	1,610 88	12,581 95
Maintenance of Telegraph	18 75	18 75	16 70		54 20
Maintenance of Fences		65			65
Maintenance of Buildings	22 10	28 00	13 93	11 75	75 28
Maintenance of Bridges	150 56	6 70	49 70	14 45	221 41
Miscellaneous			1,000 00		1,000 00
Printing and Stationery	118 78	115 06		83 63	317 47
Station Service	848 21	971 99	340 08	408 06	2,568 34
Stock Killed	6 00	2 00	9 00		17 00
Train Service	370 39	400 35	196 65	68 10	1,035 49
Telegraph Service	394 53	313 96	200 94	184 00	1,093 43
Taxes					
Total Operating Expenses	12,201 86	10,689 68	8,417 89	4,819 76	36,129 19
Chargeable to Income Account but not Operating Expenses.					
Car Rental	1,107 52	1,201 50	568 22	238 91	3,116 15
Locomotive Rental	780 00	810 00	385 00		1,975 00
Total	1,887 52	2,011 50	753 22	238 91	5,091 15
Total to Income Account	14,089 38	12,701 18	9,371 11	5,058 67	41,220 34
IMPROVEMENTS AND BETTERMENTS TO PROPERTY.					
Right of Way			600 00		
Grand Total of all Expenses	14,089 38	12,701 18	9,971 11	5,058 67	41,820 34

Exhibit "D."

Indianapolis, Bloomington and Western Railway Company. Invoice of station property on extension March 1st, 1879.

1563 20 depots.
5 coal houses.
6 privies.
4 platforms.
20 stock pens.
18 hand car houses.
8 water tanks and fixtures.
1 iron table.
Furniture.
36 stoves.
17 coal hods.
17 W. H. trucks.
2 baggage "
24 oil cans.
21 desks.
10 tables.
36 lamps.
32 settees.
9 local ticket cases.
5 coupon " "
10 local " boxes.
18 " stamps.
20 lanterns.
13 pails.
16 chairs.
4 pinch bars.
3 railings.
17 car locks.
1564 61 track wrenches
17 monkey wrenches.
10 wheel-barrows.
63 bush scythes.
54 oil cans.
3 mattocks.
19 water kegs.
12 water buckets.
20 grind stones.
11 tape lines.
16 track jacks.
5 sprinklers.
6 W. B. presses.
5 " " hands.
6 platform scales.
1 hand-cart.
4 hatchets.
1 stove.
1 battery case.
1 paper "

Road tools:

133 shovels.
65 picks.
28 tamping bars.
65 lining "
12 crow "
43 claw "
60 spiking hammers.
16 sledge "
95 cold chisels.
19 punches.
2 augers.
24 adzes.
23 axes.
24 hatchets.
24 saws.
24 track gauges.
22 levels.
25 white lanterns.
20 track levers.
32 level boards.
32 level blocks.
9 ratchets.
25 ratchet drills.
44 locks.
69 handles.
21 switch locks.
33 flags.
17 scythe hones.

Rolling Stock.

6 locomotives—Nos. 11, 31, 32, 33, 40 and 41.
4 passenger coaches—Nos. 9, 11, 15 and 21.
3 baggage, mail, and express cars—Nos. 3, 4, and 5.
29 box cars—Nos. 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010,

EXHIBIT E.

"MAIN LINE."

EARNINGS AND OPERATING EXPENSES INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY, DECEMBER, 1878, TO MAY, 1879.

EARNINGS.	1878. December.	1879. January.	February.	March.	April 1st to 12th.	Total.
From Freight	61,966 63	55,843 21	52,195 71	48,297 07	21,993 19	240,295 81
" Passengers	23,327 27	19,705 01	21,378 80	26,294 72	8,501 31	99,607 11
" Express and Mail	2,197 88	2,157 76	2,097 76	2,163 66	795 08	9,412 14
" Chair Cars	305 25	260 25	246 50	314 75	99 50	1,226 25
" Miscellaneous	1,467 50	1,235 00	810 00	886 67	239 53	4,638 70
" Mileage	7,730 00	5,783 47	7,784 18	7,700 49	2,776 82	31,774 96
Total	96,994 53	84,984 70	84,512 95	85,657 36	34,805 43	386,954 97

OPERATING EXPENSES.	1878. December.	1879. January.	February.	March.	April	Total.
Advertising	33 00	82 50	12 50	68 75	62 33	259 08
Agencies (Foreign Freight)	587 99	456 13	454 98	409 09	337 51	2,245 70
Agencies (Foreign Passenger)	343 27	292 28	294 20	299 18	128 01	1,356 94
Chair Car Expenses	125 19	403 97	292 75	372 52	482 15	1,679 58
Conductors, Baggagemasters, and Brakesmen	5,632 75	5,051 40	5,150 65	4,982 07	1,993 41	23,410 28
Damage to Persons and Baggage		2,000 00	2,000 00		200 00	4,200 00
Engineers and Firemen	5,313 50	5,430 15	4,850 55	5,071 85	1,967 35	22,633 40
Engine-houses, M. S., T. T. Exp. & Rep'rs of	392 80	206 42	87 12	523 64	67 17	1,277 15
Fuel and Water Stations, Exp. & Repairs of	1,308 90	1,146 05	1,355 65	1,231 85	410 66	5,453 11
Freight Correction	1,938 28	3,419 18	3,908 10	503 30	3,660 40	13,429 26
Fuel for Locomotives	5,236 48	5,289 44	4,621 65	4,298 30	2,033 04	21,478 91
General Expenses	5,338 40	3,874 34	3,693 90	5,524 52	1,007 62	19,238 83
Griggs House, Repairs of	41 31	43 91	55 59	80 26	17 12	238 19
Insurance	1,345 94	110 00	115 00	55 00		1,625 94
Interest and Discount	353 36	245 91	9 38	74 93		683 58
Indianapolis Transfer Account	1,573 00	1,246 00	1,356 00	1,099 00	583 00	4,857 00
Loss and Damage (Freight)	4 63				408 31	412 94
Legal Expenses	1,271 00	430 05	313 68	537 55	172 50	2,724 78
Maintenance of Cars	5,993 85	4,075 99	2,716 56	3,923 20	63 95	17,373 35
Maintenance of Rented Cars	1,147 20	1,244 42	784 46	1,093 40	270 26	4,539 74
Maintenance of Motive Power	4,850 86	4,666 36	4,340 33	4,485 72	794 81	19,138 08
Maintenance of Road	9,079 50	9,303 08	8,373 73	14,421 10	8,182 47	49,359 88
Maintenance of Telegraph	113 54	111 25	123 57	132 63	30 15	511 14
Maintenance of Fences	178 10	9 92	10 68	21 30	232 00	1,452 00
Maintenance of Buildings	152 35	308 47	57 04	205 97	12 91	1,736 74
Maintenance of Bridges	3,875 88	999 95	1,843 47	2,092 84	940 09	9,792 23
Miscellaneous	324 50	146 15	4,060 00	2,200 00		6,730 65
Printing and Stationery	482 51	729 36	388 69	553 00	217 04	2,370 60
Passenger Connections	429 40	201 90	518 30	543 70	200 75	1,894 05
Station Service	5,840 03	5,594 57	5,485 81	4,195 27	2,816 23	24,931 91
Stock Killed	83 00	244 00	100 00	76 55	270 00	1,773 55
Train Service	1,815 37	2,359 78	1,612 60	1,704 44	1,127 99	10,620 18
Telegraph Service	1,423 17	1,399 28	1,283 20	1,208 92	415 28	6,729 85
Taxes	2 50		45 95	6,539 81	823 70	7,411 96
Use of Cars	2,594 06	1,073 46	2,279 92	2,425 92	1,186 30	9,560 46
Profit and Loss		93 45				93 45
Total Operating Expenses	67,426 42	63,488 92	62,636 01	70,955 58	31,714 56	296,221 49
Chargeable to Income Account but not Operating Expenses.						
Car Rental	3,000 00	3,000 00	3,000 00	3,000 00	1,100 00	13,100 00
Track Rental	3,505 26	3,278 36	3,711 48	3,405 26	1,555 91	17,456 27
Total	6,505 26	6,278 36	6,711 48	6,405 26	2,655 91	30,556 27
Total to Income Account	73,931 68	69,767 28	69,347 49	77,360 84	34,370 47	326,777 76
IMPROVEMENTS AND BETTERMENTS TO PROPERTY.						
Right of Way	501 45					501 45
New Equipment (Oliver Adams)	4,208 64	4,198 14	4,198 14	4,198 14	1,542 96	18,346 02
Total	4,710 09	4,198 14	4,198 14	4,198 14	1,542 96	18,847 47
Grand Total of all Expenses	78,641 77	73,965 42	73,545 63	81,558 98	35,913 43	345,625 23

2011, 2012, 2013, 2014, 734, 736, 738, 740, 744, 746, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770.

1 boarding car—No. 6.

2 caboose cars—Nos. 11 and 12.

2 pilot cars—Nos. 24 and 25.

22 coal cars—Nos. 301, 305, 307, 309, 311, 313, 315, 319, 321, 323, 325, 327, 329, 331, 333, 335, 339, 341, 343, 345, 347, 349.

14 stock cars—Nos. 402, 404, 406, 408, 410, 412, 414, 418, 420, 422, 424, 430, 432, 434.

12 flat cars—Nos. 83, 91, 97, 101, 103, 963, 847, 387, 385, 383, 389.

9 hand cars—Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9.

9 rubble cars—Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9.

1565 The foregoing is a correct list of the personal property at the different stations and on the line of the Indianapolis, Bloomington and Western Railway extension turned over by Geo. B. Wright, receiver, on March 1st, 1879, when I assumed control of said division of road as receiver. The 12 white line cars are said to be in service, and a tracing showing their whereabouts has been furnished me. The above list also includes the locomotives and cars assigned to the extension by order of the court.

W. H. SMITH,
Receiver I., B. & W. Extension.

1567 *Exhibit F.*

Geo. B. Wright, receiver, Indianapolis, Bloomington and Western Railway:

Statement of adjustments, collections, and disbursements.

Entered in the books as earnings and expenses from Apr. 11, 1879, to June 30, 1881.

EARNINGS.

From passengers	$1 07
From freight	326 68
Total	327 75

EXPENSES.

Mileage earnings—corrections	999 64
Misc. "	9 30
Agents foreign, passenger	11 54
do " freight	888 63
Conductors' B. & Bun	5 20
Damage to P. & Bg	3 00
Freight corrections	5,771 24
General expenses	6,140 06
Interest & discount Cr.	69 70
Loss and damage freight	375 06
Legal expenses	2,350 95
Maintenance cars	726 70
do road	605 46

	Miscellaneous		558 85
	Passenger corrections		48 05
	Station service	Cr.	4 84
1568	Stock killed		487 00
	Taxes	Cr.	64 00
	Use of cars		64
	Profit and Loss		2,311 15
	Track rent		150 00
	Station service, extension		3 00
	* Interest, receiver's certificates, iron rails		1,900 23
	* do do pay rolls		1,047 10
	* do do M. L. taxes		1,794 23
	* do do Special taxes		1,370 43
	do do do "		1,057 33
	* do do Exten. "		945 56
	Total		$29,521 81
	Other payments:		
	Account I., B. & W. R'y, old claim I. & St. L. R'y		3,354 61
	Total of all expenditures		$32,876 42

* Were paid through funds received from master, or deposited in court by purchasers at Indianapolis or Springfield.

EXHIBIT G.—WRIGHT.

DR. GEORGE B. WRIGHT, Receiver, in Account with THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY, CR.

GEORGE B. WRIGHT, RECEIVER.

1879.					1879.			
Aug. 1...	Balance			$21,155 62	Aug. 1...	Vouchers paid, 2828—2956		$1,400 6
31...	From Miscellaneous	$2,512 43						
31...	" Foreign Roads	45						
31...	" Local Agents	6 80						
			2,519 68		Sept. 30...	Vouchers paid, 2957—3126	$1,883 10	
Sept. 30...	" Miscellaneous	839 39			30...	Foreign Road, balances	29 50	
30...	" Local Agents	18 25						1,912 60
			857 64		Oct. 31...	Vouchers paid, 3127—3173	626 44	
Oct. 31...	" Miscellaneous	414 09			31...	Foreign Road, balances	36 22	
31...	" Foreign Roads	223 71			31...	General Expenses, voucher	3,000 00	
31...	" Local Agents	33 25						3,662 66
			671 05		Dec. 31...	Vouchers paid, 3176—3230	1,555 78	
Dec. 31...	" Miscellaneous	324 79			31...	Pay-Rolls paid, 3231—3232	8 05	
31...	" Foreign Roads	304 48						1,563 83
			629 27		1880.			
1880.					Mar. 31...	Vouchers paid, 3233—3293	1,691 74	
Mar. 31...	" Miscellaneous	323 94			31...	Foreign Road, balances	655 84	
51...	" Local Agents	4 66						2,347 58
			328 60		July 31...	Vouchers paid, 3298—3365		3,830 64
July 31...	" Miscellaneous		2,786 64		Oct. 31...	Vouchers paid, 3366—3377		250 61
Oct. 31...	" Miscellaneous	89 16			1881.			
31...	" Local Agents	11 66			April 30...	Vouchers paid, 3378—3387	260 16	
			100 82		30...	Ind's & Co.'s P. C. & St. L. R'y	10 03	
1881.					May 31...	General Expense vouchers	3,000 00	
April 30...	" Miscellaneous	903 48						3,270 19
30...	" Local Agents	475 00						
			1,378 48		June 30...	Vouchers		3,394 61
						Balance		9,191 44
			$3,824 80					$30,824 80

1590 And afterwards, to wit, at the May Term of said court, on the 24th day of October, 1881, before the Honorable Thomas Drummond, judge of said court, the following further proceedings in the above entitled cause were had, to wit:

Comes now George B. Wright, receiver, and files his final account and report, and prays that the same be confirmed and that he be relieved from his duties as receiver; and the court, upon the consent of parties, now confirms said account and report, and orders that the said receiver be, and he is hereby, finally discharged upon payment into the registry of the court of the balance on hand as shown by said report, to wit, eleven thousand five hundred and ten dollars and ninety-four cents ($11,510.94). And said account and report is in the words and figures following, to wit:

Indianapolis, Bloomington and Western Railway, Geo. B. Wright, Receiver.

MALCOLM C. TURNER et al.
v.
THE INDIANAPOLIS, BLOOMINGTON AND WESTERN RAILWAY COMPANY et al.

Statement of Receipts and Disbursements, July 1, 1881, *to Oct.* —, 1881.

1881.	RECEIPTS.		
July 1.	Balance per last report	$9,191 44	
Aug. 31.	Sundry sources	977 31	
Sep. 30.	do	21 25	
			10,190 00
1881.	DISBURSEMENTS.		
Sep. 30.	Voucher 3393, C. H. & D. R. R. overcharges	57	
	do 4, do	2 49	
	do 5, do	51	
	do 6, do	40	
	do 7, do	10 19	
	do 8, do	3 25	
	do 9, do	78	
	do 3400 J. M. & I. R. R. do	47	
	do 1, C. & E. I. R. R. do	59	
	do 2, J. M. & I. R. R. do	5 39	
	do 3, Est. B. J. Spooner, services	263 56	
	do 4, Geo. B. Wright, expenses	178 71	
Oct. 1.	do 5, C. W. Fairbanks ac. do	212 15	
	Balance	9,510 94	
			10,190 00

1881.	BALANCE.	
Oct.	Balance	$9,510 95
" 24.	To amount of allowance reduced by the court	2,000 00
		$11,510 94

Now comes George B. Wright, receiver, and files this his final account and asks that the same be approved and confirmed, and that he be discharged from all further duties, obligations and liabilities, upon the payment of the balance of $11,510.94, as may be ordered by the court. All of which is respectfully submitted.

GEO. B. WRIGHT, *Rec.*